

Extra Ordinary Part - VI / 2011

Extra No.	Date	Department
Extra No.1	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.2	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.3	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.4	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.5	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.6	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.7	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.8	01-01-2011	Legislative & Parliamentary Affairs Department
Extra No.9	31-05-2011	Legislative & Parliamentary Affairs Department
Extra No.10	27-07-2011	Legislative & Parliamentary Affairs Department
Extra No.11	16-08-2011	Legislative & Parliamentary Affairs Department
Extra No.12	30-11-2011	Legislative & Parliamentary Affairs Department
Extra No.13	30-11-2011	Legislative & Parliamentary Affairs Department
Extra No.14	30-11-2011	Legislative & Parliamentary Affairs Department
Extra No.15	30-11-2011	Legislative & Parliamentary Affairs Department
Extra No.16	30-11-2011	Legislative & Parliamentary Affairs Department
Extra No.17	30-11-2011	Legislative & Parliamentary Affairs Department
Extra No.18	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.19	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.20	02-12-2011	Legislative & Parliamentary Affairs Department

Extra No.	Date	Department
Extra No.21	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.22	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.23	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.24	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.25	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.26	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.27	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.28	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.29	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.30	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.31	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.32	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.33	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.34	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.35	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.36	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.37	02-12-2011	Legislative & Parliamentary Affairs Department
Extra No.39	05-12-2011	Legislative & Parliamentary Affairs Department
Extra No.40	05-12-2011	Legislative & Parliamentary Affairs Department



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st January, 2011

No.RPB/8-2010/Act-36-09/E :- The following Act of Parliament is republished for general information:-

Government of India
Ministry of Law and Justice

LEGISLATIVE DEPARTMENT

New Delhi, the 22nd December, 2009, Pausa 1, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 22nd December, 2009, is hereby published for general information:-

THE ESSENTIAL COMMODITIES (AMENDMENT AND VALIDATION) ACT, 2009

AN

ACT

(Act No. 36 of 2009)

[22nd December, 2009]

further to amend the Essential Commodities Act, 1955 and to make provisions for validation of certain orders issued by the Central Government determining the price of levy sugar and actions taken under those orders and for matters connected therewith

WHEREAS a Bench of three Judges of the Hon'ble Supreme Court in the case of Modi Industries Ltd. and Another *versus* Union of India and Others on the 20th February, 1996 reported in (1999) 9 SCC 245, accepted the statement made on behalf of the Union of India that while determining the minimum cane price of levy sugar, regard had been given only to the minimum cane price referred to in section 3 (3 C) of the Essential Commodities Act, 1955 and that the additional cane price payable under clause 5 A of the Sugarcane (Control) Order, 1966 had not been taken into account and held that the case was not covered by the decision of the Supreme Court dated 22-9-1993 in Shri Malaprabha Coop. Sugar Factory Ltd. *versus* Union of India [(1994) 1 SCC 648 Malaprabha (1)];

AND WHEREAS subsequently the decision of a Bench of three Judges of the Supreme Court dated 28-1-1997 in the case of Shri Malaprabha Coop. Sugar Factory Ltd. *versus* Union of India (Malaprabha 2) (1997) 10 SCC 216 held that the decision in Modi Industries' case did not have any bearing on the fixation of price of levy sugar for the year 1975-1976 to 1979-1980;

AND WHEREAS the decision of the Bench of three Judges in Modi Industries Ltd. and Another *versus* Union of India and others was followed in the case of Bharat Sugar Mills Ltd. and another *versus* Union of India, (decided on 19th August, 1998) after noticing the judgments in Shri Malaprabha Coop. Sugar Factory Ltd. (Malaprabha 1) and Shri Malaprabha Coop. Sugar Factory Ltd. [(Malaprabha 2)];

AND WHEREAS in the case of Union of India and Others *versus* Triveni Engineering Works Ltd. (1999) 9 SCC 244, by judgment dated 2-2-1999, the appeal of the Union of India was allowed relying upon the decision in Modi Industries Ltd. and the decision of the Bench of two Judges of the Supreme Court in Bharat Sugar Mills Ltd.;

AND WHEREAS in Shri Malaprabha Coop. Sugar Factory Ltd. *Versus* Union of India, [(2002) 9 SCC 716] (Malaprabha3) Contempt Petitions filed against the Union of India for alleged non-compliance with the decision in Malaprabha 1 and Malaprabha 2, were dismissed by order dated 16-11-2000 and the working statement given before the Hon'ble Court showed that the retention of fifty per cent, being a factor which can be taken into consideration in determining element (d) in section 3(3C) of the Essential Commodities Act was taken into account, not to the extent as desired by the petitioners, but the result of this was that the levy price fixed at Rs 163.780 in respect of West U.P. had gone up to Rs. 172.430, the Hon'ble Supreme Court held that "the said fixation is in accordance with law and the directions given by this Court have been complied with. Neither a case for contempt has been made out nor is there any justification, in our opinion, for giving any direction to the Government to re-fix the levy price under section 3(3C) of the Essential Commodities Act.";

AND WHEREAS notwithstanding the judgment in the Modi Industries case, the Bharat Sugar Mills case, and the Triveni Engineering Works Ltd. case and the judgment of a Bench of three Judges of the Hon'ble Supreme Court in Shri Malaprabha Coop. Sugar Factory Ltd. (Malaprabha 3), a Bench of two Judges of the Hon'ble Supreme Court in Mahalakshmi Sugar Mills Coop. Ltd. and Anr. *Versus* Union of India and Others (2008) 6 SCALE 275, in a judgment dated 31st March, 2008, in relation to sugar seasons 1983-1984 and 1984-1985, held that the actual price payable to cane growers was absolutely relevant for determining the price of levy sugar;

AND WHEREAS there are thus conflicting decisions as to the factors to be taken into consideration in determining the price of levy sugar;

AND WHEREAS it has become necessary to make suitable amendments to the Essential Commodities Act, 1955 to clarify and reiterate the underlying principles and the factors that needed to be taken into consideration in determining the price of levy sugar and to give effect accordingly; 10 of 1955.

AND WHEREAS in order to remove doubts and ambiguities it has become necessary to make such provisions with retrospective effect to validate the determination of the price of levy sugar by the Central Government from time to time pursuant to the provisions of the Essential Commodities Act, 1955. 10 of 1955.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Essential Commodities (Amendment and Validation) Act, 2009.

(2) It shall be deemed to have come into force on the 21st day of October, 2009.

Amendment of
section 3.

2. In section 3 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act)— 10 of 1955.

(a) in sub-section (3C), the existing *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of October, 1974, namely:—

'Explanation II.—For the removal of doubts, it is hereby declared that the expressions "minimum price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital employed" referred to in clause (d) exclude the additional price of sugarcane paid or payable under clause 5 A of the Sugarcane (Control) Order, 1966 and any price paid or

payable under any order or enactment of any State Government and any price agreed to between the producer and the grower of sugarcane or a sugarcane growers' co-operative society.';

(b) for sub-section (3C) and the *Explanations* there under, the following shall be substituted, and shall be deemed to have been substituted, on and from the 1st day of October, 2009, namely:—

(3C) Where any producer is required by an order made with reference to clause (f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or to a State Government or to an officer or agent of such Government or to any other person or class of persons) whether a notification was issued under sub-section (3A) or otherwise, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer only such amount as the Central Government may, by order, determine, having regard to—

(a) the fair and remunerative price, if any, determined by the Central Government as the price of sugarcane to be taken into account under this section;

(b) the manufacturing cost of sugar;

(c) the duty or tax, if any, paid or payable thereon; and

(d) a reasonable return on the capital employed in the business of manufacturing of sugar:

Provided that the Central Government may determine different prices, from time to time, for different areas or factories or varieties of sugar:

Provided further that where any provisional determination of price of levy sugar has been done in respect of sugar produced up to the sugar season 2008-2009, the final determination of price may be undertaken in accordance with the provisions of this sub-section as it stood immediately before the 1st day of October, 2009.

Explanation.— For the purposes of this sub-section,—

(a) "fair and remunerative price" means the price of sugarcane determined by the Central Government under this section;

(b) "manufacturing cost of sugar" means the net cost incurred on conversion of sugarcane into sugar including net cost of transportation of sugarcane from the purchase centre to the factory gate, to the extent it is borne by the producer;

(c) "producer" means a person carrying on the business of manufacturing sugar;

(d) "reasonable return on the capital employed" means the return on net fixed assets plus working capital of a producer in relation to manufacturing of sugar including procurement of sugarcane at a fair and remunerative price determined under this section.'.

3. (1) Notwithstanding anything contained in any judgment decree or order of any court, tribunal or other authority—

(a) all things done or all actions taken by the Central Government under the specified orders shall be deemed to be and deemed to have always been done or taken in accordance with law;

(b) no suit, claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for the payment or adjustment of any payment in relation to the determination of price of levy sugar under any specified order;

Validation of action taken, etc., under specified orders issued under sub-section (3C) of section 3 of the principal Act.

(c) no court shall enforce any decree or order directing any payment in relation to the determination of price of levy sugar under any specified order;

(d) no claim or challenge shall be made in, or entertained by any court, tribunal or other authority on the ground that the Central Government did not take into consideration any of the factors specified in sub-section (3C) of section 3 of the principal Act in the determination of price of levy sugar under any specified order.

(2) In this section, "specified order" means any order relating to the determination of price of sugar issued under sub-section (3C) of section 3 of the principal Act before the 21st day of October, 2009, in relation to sugar produced in any sugar season up to and including the sugar season 2008-2009.

Repeal and
saving.

4. (1) The Essential Commodities (Amendment and Validation) Ordinance, 2009, is hereby repealed. Ord. 9 of 2009.

(2) Notwithstanding the repeal of the Essential Commodities (Amendment and Validation) Ordinance, 2009, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall, subject to the provisions contained in sub-section (3), be deemed to have been done or taken under the principal Act, as amended by this Act. Ord. 9 of 2009.

(3) Nothing contained in sub-section (2) shall apply to clause 3B of the Sugarcane (Control) Order, 1966, as inserted by the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution Order number S.O.266 (E)/Ess Com./Sugarcane dated the 22nd October, 2009 or any thing done or any action taken thereunder.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st January, 2011.

No.RPB/10-2010/Act-38-09/E:- The following Act of Parliament is republished
for general information: -

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd December, 2009, Pausa 2, 1931 (Sake)

The following Act of Parliament has received the assent of the President
on the 22nd December, 2009, is hereby published for general information:-

THE CENTRAL UNIVERSITIES (AMENDMENT) ACT, 2009

AN ACT

(Act No. 38 of 2009)

[22nd December, 2009]

to amend the Central Universities Act, 2009.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as
follows:—

1.(1) This Act may be called the Central Universities (Amendment) Act, 2009.

Short title and
Commencement.

(2) It shall be deemed to have come into force on the 20th day of October,
2009.

25 of 2009.

2. After section 3 of the Central Universities Act, 2009 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Insertion of
Section 3A.

"3A. (1) The Central University of Jammu and Kashmir established under subsection (4) of section 3 shall be known as the Central University of Kashmir and its territorial jurisdiction shall be limited to the Kashmir Division of the State of Jammu and Kashmir.

Special
provision with
respect to the
State of Jammu
and Kashmir.

(2) There shall be established a university, which shall be a body corporate, to be known as the Central University of Jammu having its territorial jurisdiction extending to the Jammu Division of the State of Jammu and Kashmir.

(3) All assets and liabilities of the Central University of Jammu and Kashmir in respect of the territory of Jammu Division of the State of Jammu and Kashmir shall stand transferred to be the assets and liabilities of the Central University of Jammu.

(4) Anything done or any action taken by the University of Jammu and Kashmir in respect of the territory of Jammu Division of the State of Jammu and Kashmir shall be deemed to have been done or taken by the Central University of Jammu,

(5) Any suit or legal proceedings instituted or continued by or against the Central University of Jammu and Kashmir in respect of the territory of Jammu Division of the State of Jammu and Kashmir shall be deemed to have been instituted or continued by or against the Central University of Jammu."

Amendment of
the First
Schedule to
the principal
Act.

3. In the First Schedule to the principal Act, for serial number 5 and the corresponding entries against it, the following serial numbers and entries shall be substituted, namely:—

"5	Jammu and Kashmir	Central University of Kashmir	Kashmir Division of the State of Jammu and Kashmir
5A	Jammu and Kashmir	Central University of Jammu	Jammu Division of the State of Jammu and Kashmir".

Repeal and
saving.

4. (1) The Central Universities (Amendment) Ordinance, 2009 is hereby repealed. Ord. 8 of 2009

(2) Notwithstanding the repeal of the Central Universities (Amendment) Ordinance, 2009, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act. Ord. 8 of 2009

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.



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PART - VI

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Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 1st January, 2011.

No. RPB/11-2010/Act.-39-09/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 23rd December, 2009, Pausa 2, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 22nd December, 2009, is hereby published for general information:-

THE COMPETITION (AMENDMENT) ACT, 2009

AN ACT

(Act No. 39 of 2009)

[22nd December, 2009]

further to amend the Compensation Act, 2002.

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

1. (1) This Act may be called the Competition (Amendment) Act, 2009.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 14th day of October, 2009.

2. In section 66 of the Competition Act, 2002,—

Amendment of
section 66 of
Act 12 of 2003.

(a) in sub-section (1), the proviso and the *Explanation* thereto shall be omitted;

(b) in sub-section (3),—

(i) for the words, brackets and figure "after the expiry of two years referred to in the proviso to sub-section (1)", the words, brackets and figures "on the commencement of the Competition (Amendment) Act, 2009" shall be substituted;

(ii) the following *Explanation* shall be inserted, namely:—

"*Explanation.*— For the removal of doubts, it is hereby declared that all cases referred to in this sub-section, sub-section (4) and sub-section (5) shall be deemed to include all applications made for the

losses or damages under section 12B of the Monopolies and Restrictive Trade Practices Act, 1969 as it stood before its repeal;

54 of 1969.

(c) in sub-section (4),—

(i) for the words, brackets and figure "on or before the expiry of two years referred to in the proviso to sub-section (1)", the words, brackets and figures "immediately before the commencement of the Competition (Amendment) Act, 2009, shall, on such commencement" shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that all the cases relating to the unfair trade practices pending, before the National Commission under this sub-section, on or before the date on which the Competition (Amendment) Bill, 2009 receives the assent of the President, shall, on and from that date, stand transferred to the Appellate Tribunal and be adjudicated by the Appellate Tribunal in accordance with the provisions of the repealed Act as if that Act had not been repealed.";

(d) in sub-section (5), for the words, brackets and figure "after the expiry of two years referred to in the proviso to sub-section (1)", the words, brackets and figures "on the commencement of the Competition (Amendment) Act, 2009" shall be substituted;

(e) in sub-section (7), the following proviso shall be inserted, namely:—

"Provided that all investigations or proceedings, relating to unfair trade practices pending before the National Commission, on or before the date on which the Competition (Amendment) Bill, 2009 receives the assent of the President shall, on and from that date, stand transferred to the Appellate Tribunal and the Appellate Tribunal may conduct or order for conduct of such investigation or proceedings in the manner as it deems fit."

Repeal and
savings.

3. (1) The Competition (Amendment) Ordinance, 2009 is hereby repealed.

Ord. 6 of
2009.1969.

(2) Notwithstanding such repeal, anything done or any action taken under the Competition Act, 2002, as amended by the said Ordinance, shall be deemed to have been done or taken under the said Act as amended by this Act. 12 of 2003.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st January, 2011

No.RPB/13-2010/Act-41-09/E :- The following Act of Parliament is republished for general information:-

Government of India
Ministry of Law and Justice
Legislative Department
New Delhi, the 23rd Decembar, 2009, Pausa 2, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 22nd December, 2009, is hereby published for general information:-

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 2009

An
Act

(Act No. 41 of 2009)

[22nd December, 2009]

further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2009.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 of 1950.

2. In section 24 of the Representation of the People Act, 1950,—

(i) in clause (a), for the words "chief electoral officer", the words "district magistrate or additional district magistrate or executive magistrate or district collector or an officer of equivalent rank" shall be substituted;

Amendment
of section
24.

(ii) after clause (a), the following clause shall be inserted, namely:—

"(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a)".

Amendment
of the
Second
Schedule.

3. In the Second Schedule to the Representation of the People Act, 1950; against serial number 18 relating to the State of Mizoram, in column 7, for the entry "38", the entry "39" shall be substituted.

CHAPTER III

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment
of section
8A.

4. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (7) of section 8A, for the words "as soon as may be after such order takes effect", the words "as soon as may be within a period of three months from the date such order takes effect" shall be substituted.

Amendment
of section 34.

5. In section 34 of the principal Act, in sub-section (i),—

(i) in clause (a), for the words "a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees", the words "a sum of twenty-five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of twelve thousand five hundred rupees" shall be substituted;

(ii) in clause (b) for the words "a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand five hundred rupees", the words "a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees" shall be substituted.

Amendment
of section
123.

6. In section 123 of the principal Act, in clause (7),—

(i) for the words "from any person in the service of the Government", the words "from any person whether or not in the service of the Government" shall be substituted;

(ii) after sub-clause (g), the following sub-clause shall be inserted, namely:—

"(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections."

Insertion of
new sections
126A and
126B.

7. After section 126 of the principal Act, the following sections shall be inserted, namely:—

'126A. (i) No person shall conduct any exit poll and publish or publicise by means of the print or electronic media or disseminate in any other manner, whatsoever, the result of any exit poll during such period, as may be notified by the Election Commission in this regard.

(2) For the purposes of sub-section (7), the Election Commission shall, by a general order, notify the date and time having due regard to the following, namely:—

(a) in case of a general election, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the poll in all the States and Union territories;

(b) in case of a bye-election or a number of bye-elections held together, the period may commence from the beginning of the hours fixed for poll on and from the first day of poll and continue till half an hour after closing of the poll:

Restriction on
publication
and
dissemination
of result of exit
polls. etc.

Provided that in case of a number of bye-elections held together on different days, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the last poll

(3) Any person who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Explanation.— For the purposes of this section,—

(a) "exit poll" means an opinion survey respecting how electors have voted at an election or respecting how all the electors have performed with regard to the identification of a political party or candidate in an election;

(b) "electronic media" includes internet, radio and television including Internet Protocol Television, satellite, terrestrial or cable channels, mobile and such other media either owned by the Government or private person or by both;

(c) "print media" includes any newspaper, magazine or periodical, poster, placard, handbill or any other document;

(d) "dissemination" includes publication in any "print media" or broadcast or display on any electronic media.

126B. (1) Where an offence under sub-section (2) of section 126A has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (7), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.¹

Sd/-

V. K. BHASIN

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHİ

Secretary to Government



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Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 1st January, 2011.

No. RPB/17-2009/Act.-45-09/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 23rd December, 2009, Pausa 2, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 22nd December, 2009, is hereby published for general information:-

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 2009

AN ACT

(Act No. 45 of 2009)

[22nd December, 2009]

further to amend the Workmen's Compensation Act, 1923.

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:--

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 2009. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of long title.

2. In the long title to the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), for the word "workmen", the word "employees" shall be substituted.

Amendment
of preamble.

3. In the principal Act, in the preamble, for the word "workmen", the word "employees" shall be substituted.

Amendment
of section 1.

4. In section 1 of the principal Act, in sub-section (1), for the word "Workmen's", the word "Employee's" shall be substituted.

Substitution
of references
to certain
expressions
by certain
other
expressions.

5. Throughout the principal Act, for the words "workman" and "workmen", wherever they occur, the words "employee" and "employees" shall respectively be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

6. In section 2 of the principal Act, in sub-section (1),—

(i) after clause (d), the following clause shall be inserted, namely:—

(dd) "employee" means a person, who is—

(i) a railway servant as defined in clause (34) of section 2 of the 24 of 1989. Railways Act, 1989, not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II; or

(ii) (a) a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company, and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or

(iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them;";

(ii) clause (n) shall be omitted.

Amendment
of section 4.

7. In section 4 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words "eighty thousand rupees", the words "one lakh and twenty thousand rupees" shall be substituted;

(ii) in clause (A), for the words "ninety thousand rupees", the words "one lakh and forty thousand rupees" shall be substituted;

(iii) after clause (b), the following proviso shall be inserted, namely:—

"Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount of compensation mentioned in clauses (a) and (A).";

(iv) after clause (b), *Explanation* II shall be omitted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) The Central Government may, by notification in the Official Gazette, specify, for the purposes of sub-section (1), such monthly wages in relation to an employee as it may consider necessary.";

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The employee shall be reimbursed the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment";

(d) in sub-section (4),—

(A) for the words "two thousand and five hundred rupees", the words "not less than five thousand rupees" shall be substituted;

(B) the following proviso shall be inserted, namely:—

"Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount specified in this sub-section."

8. In section 20 of the principal Act, in sub-section (7), after the words "appoint any person", the words "who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or a pleader or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development and industrial relations" shall be inserted. Amendment of section 20.

9. After section 25 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 25A.

"25 A. The Commissioner shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee." Time limit for disposal of case relating to compensation.

10. In Schedule II to the principal Act,—

Amendment of Schedule II.

(i) for the word, figures, brackets and letter "section 2(1)(ri)", wherever they occur, the word, figures, brackets and letters "section 2(1)(dd)" shall be substituted;

(ii) in item (i), for the words "employed, otherwise than in a clerical capacity or on a railway", the words "employed in railways" shall be substituted;

(iii) in item (ii), the words "otherwise than in a clerical capacity" shall be omitted;

(iv) in item (iii), the words "wherein or within the precincts whereof twenty or more persons are so employed" shall be omitted;

(v) in item (v), the words "other than clerical work" shall be omitted;

(vi) in item (vi),—

(a) clause (b) shall be omitted;

(b) in clause (c), the words, brackets and letter "or sub-clause (6)" shall be omitted;

(vii) in item (x), the words "otherwise than in a clerical capacity" shall be omitted;

(viii) in item (xiv), the words "otherwise than in a clerical capacity" shall be omitted;

(ix) in item (xvi), the words "in which on any one day of the preceding twelve months more than twenty-five persons have been employed" shall be omitted;

(x) for item (xviii), the following item shall be substituted, namely:—

"(xviii) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or";

(xi) in item (xix), the words "otherwise than in a clerical capacity" shall be omitted;

(xii) in item (xxvi),—

(a) in clause (a), the words "and in which on any one day of the preceding twelve months ten or more persons have been so employed" shall be omitted;

(b) in clause (b), the words "in which on any one day of the preceding twelve months fifty or more persons have been so employed" shall be omitted;

(xiii) in item (xxx), the words "otherwise than in a clerical capacity" shall be omitted;

(xiv) in items (xl) and (xli), the words "in which on any one day of the preceding twelve months more than twenty-five persons have been employed" shall be omitted;

(xv) the *Explanation* occurring after item (xlix) at the end shall be omitted.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st January, 2011

No.RPB/18-2010/Act-46-09/E :- The following Act of Parliament is republished for general information:-

Government of India
Ministry of Law and Justice
Legislative Department
New Delhi, the 31st Decembar, 2009, Pausa 10, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 31st December, 2009, is hereby published for general information:-

THE NATIONAL RURAL EMPLOYMENT GUARANTEE (AMENDMENT) ACT, 2009,

An Act

(Act No. 46 of 2009)

[31st December, 2009]

to amend the National Rural Employment Guarantee Act, 2005.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Rural Employment Guarantee (Amendment Act, 2009.

Short title and commencement.

(2) It shall be deemed to have come into force on the 2nd day of October, 2009.

Amendment of section 1.

2. In the National Rural Employment Guarantee Act, 2005, in sub-section (1) of section 1, for the words "the National Rural Employment Guarantee Act", the words "the Mahatma Gandhi National Rural Employment Guarantee Act" shall be substituted.

42 of 2005.

Sd/-

V. K. BHASIN

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH

Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st January, 2011.

No. RPB/19-2010/Act-47-09/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 31st December, 2009, Pausa 10, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 31st December, 2009, is hereby published for general information :-

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 2009

An Act

(Act No. 47 of 2009)

[31st December, 2009]

Further to amend the Payment of Gratuity Act, 1972.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2009.

(2) It shall be deemed to have come into force on the 3rd day of April, 1997.

39 of 1972.

2. In the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in section 2, for clause (e), the following clause shall be substituted, namely:-

Short title
and
commence
ment.

Amendment
of section 2.

'(e) "employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity;

Insertion of
new section
13 A.

3. After section 13 of principal Act, the following section shall be inserted, namely:-

Validation of
payment of
gratuity.

"13A Notwithstanding anything contained in any judgement, decree or order of any court, for the period commencing on and from the 3rd day of April, 1997 and ending on the day on which the Payment of Gratuity (Amendment) Act, 2009, receives the assent of the President, the gratuity shall be payable to an employee in pursuance of the notification of the Government of India in the Ministry of Labour and Employment *vide* number S.O. 1080, dated the 3rd day of April, 1997 and the said notification shall be valid and shall be deemed always to have been valid as if the Payment of Gratuity (Amendment) Act, 2009 had been in force at all material times and the gratuity shall be payable accordingly:

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of the non-payment by him of the gratuity during the period specified in this section which shall become due in pursuance of the said notification."

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st January, 2011.

No.RPB/20-2010/Act-48-09/E.- The following Act of Parliament is republished
for general information: -

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 31st December, 2009, Pausa 10, 1931 (Sake)

The following Act of Parliament has received the assent of the President
on the 31st December, 2009, is hereby published for general information:-

THE STATE BANK OF SAURASHTRA (REPEAL) AND

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) AMENDMENT ACT, 2009

AN ACT

(Act No. 48 of 2009)

[31st December, 2009]

to repeal the State Bank of Saurashtra Act, 1950 and further to amend the State Bank of India

(Subsidiary Banks) Act, 1959.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as
follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the State Bank of Saurashtra (Repeal) and the State
Bank of India (Subsidiary Banks) Amendment Act, 2009.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by
notification in the Official Gazette, appoint.

CHAPTER II

REPEAL OF THE STATE BANK OF SAURASHTRA ACT, 1950

2. (1) The State Bank of Saurashtra Act, 1950 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal anything done or any action taken including any agreement entered into, under the provisions of the State Bank of Saurashtra Act, 1950, by the State Bank of Saurashtra shall continue to be in force and have effect as if this Act has not been enacted.

10 of 1897.

(3) The mention of particulars in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

CHAPTER III

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

Amendment of
section 2.

3. In section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (hereafter in this Chapter referred to as the Subsidiary Banks Act),—

38 of 1959.

(i) in clause (A), sub-clause (IV) shall be omitted;

(ii) clause (i) shall be omitted;

(iii) in clause (K), the words "and the Saurashtra Bank" shall be omitted.

Amendment of
section 14.

4. In the Subsidiary Banks Act, in section 14,—

(i) in the marginal heading, the words "the Saurashtra Bank" shall be omitted;

(ii) in sub-section (7), the words "the State Government of Gujarat in respect of the Saurashtra Bank" shall be omitted;

(iii) in sub-section (2) and in the proviso, the words "the State Government of Gujarat," and "or the State Government of Gujarat" shall, respectively, be omitted;

(iv) in sub-section (3), the words, "the State Government of Gujarat" shall be omitted;

(v) in sub-section (4), the words "the State Government of Gujarat" shall be omitted.

Amendment of
section 23.

5. In the Subsidiary Banks Act, in section 23,—

(i) for the words "the Hyderabad Bank and the Saurashtra Bank", the words "and the Hyderabad Bank" shall be substituted;

(ii) for the words "the Hyderabad Bank or the Saurashtra Bank", the words "or the Hyderabad Bank" shall be substituted.

Amendment of
section 42.

6. In the Subsidiary Banks Act, in section 42, for the words "the Hyderabad Bank or the Saurashtra Bank", the words "or the Hyderabad Bank" shall be substituted.

Amendment of
section 46.

7. In the Subsidiary Banks Act, in section 46,—

(i) in the marginal heading, the words "and the Saurashtra Bank" shall be omitted;

(ii) in sub-section (1), the words "or the Saurashtra Bank," shall be omitted;

(iii) the Explanation shall be omitted.

Amendment of
section 47.

8. In the Subsidiary Banks Act, in section 47, in sub-section (1), for the words "the Hyderabad Bank or the Saurashtra Bank", the words "or the Hyderabad Bank" shall be substituted.

Amendment of
section 49.

9. In the Subsidiary Banks Act, in section 49,—

- (i) in sub-section (1), the words "or the Saurashtra Bank" shall be omitted;
- (ii) in sub-section (2), the words "or of the Saurashtra Bank" shall be omitted;
- (iii) in sub-section (3), the words "or the Saurashtra Bank" shall be omitted.

Amendment of
section 56.

10. In the Subsidiary Banks Act, in section 56,—

- (i) in the marginal heading, the words "and the State Bank of Saurashtra" shall be omitted;
- (ii) the words "and the Saurashtra Bank" shall be omitted;
- (iii) the words "or the Saurashtra Bank, as the case may be," , at both the places where they occur, shall be omitted.

11. In the First Schedule to the Subsidiary Banks Act, in Paragraph 1, in sub paragraph A, for the words "the Bank of Patiala or the Saurashtra Bank," the words "or the Bank of Patiala" shall be substituted.

Amendment of
First Schedule.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.



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PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31st May, 2011.

No. : RPB/1-2011/Ord.-01-2011/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II Section 1, dated the 10th May, 2011 is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 10th May, 2011/Vaisakha 20, 1933 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 2011

No. 1 of 2011

Promulgated by the President in the Sixty-second Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

1. (1) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 2011. Short title and commencement.

(2) It shall come into force at once.

Amendment of
section 3A of
Act 102 of 1956.

2. In section 3A of the Indian Medical Council Act, 1956, in sub-section (2), for the words "one year", the words "two years" shall be substituted.

Sd/-

PRATIBHA DEVISINGH PATIL,

President

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat
Legislative and Parliamentary Affairs Department
Sachivalaya, Gandhinagar, 27th July, 2011.

No. RPB/2-2011/Ord.-02-2011/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 20th June, 2011 is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 20th June, 2011, Jyaishta 30, 1933 (Saka)

**THE INDIAN INSTITUTE OF INFORMATION TECHNOLOGY, DESIGN AND
MANUFACTURING, KANCHEEPURAM ORDINANCE, 2011**

No. 2 OF 2011

Promulgated by the President in the Sixty-second Year of the Republic of India.

An Ordinance to declare the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram, in the State of Tamil Nadu, to be an institute of national importance and to provide for its incorporation and for matters connected therewith.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram Ordinance, 2011. Short title and commencement.
- (2) It shall come into force at once.

2. Whereas the objects of the institution known as the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram, in the State of Tamil Nadu are such as to make the institution one of national importance, it is hereby declared that the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram is an institution of national importance.

Declaration of
Indian Institute
of Information
Technology,
Design and
Manufacturing,
Kancheepuram,
as an institution
of national
importance.

Definitions

3. In this Ordinance, unless the context otherwise requires,-

- (a) "Board" means the Board of Governors of the Institute,
- (b) "Chairperson" means the Chairperson of the Board;
- (c) "Director" means the Director of the Institute;
- (d) "Institute" means the institution known as the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram incorporated under this Ordinance;
- (e) "notification" means a notification published in the Official Gazette;
- (f) "prescribed" means prescribed by Statutes made under this Ordinance;
- (g) "Registrar" means the Registrar of the Institute;
- (h) "Senate" means the Senate of the Institute;
- (i) "Society" means the society known as the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram, registered under the Societies Registration Act, 1860;
- (j) "Statutes" and "Ordinances" means the Statutes and Ordinances of the Institute made under this Ordinance;
- (k) "Visitor" means the President of India.

21 of 1860.

CHAPTER II**THE INSTITUTE****Incorporation of Institute.**

4. (1) The Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram which is a society registered under the Societies Registration Act, 1860 is hereby constituted as a body corporate by the name aforesaid and as such body corporate, it shall have perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property and to contract and shall, by that name, sue and be sued.

(2) The Institute shall consist of a Chairperson, a Director and other members of the Board.

Effect of incorporation of Institute.

5. (1) On and from the commencement of this Ordinance, -

- (a) any reference to the Society in any law, other than this Ordinance, or in any contract or other instrument, shall be deemed as a reference to the Institute;
- (b) all property, movable and immovable, of or belonging to the Society shall vest in the Institute;
- (c) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of the Institute; and
- (d) every person employed by the Society, immediately before such commencement shall hold his office or service in the Institute for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held if this Ordinance had not been promulgated, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

(2) Any person pursuing any academic or research course, at any time before the commencement of this Ordinance, in the Society for award of any degree or diploma and registered for the said purpose with it shall be deemed to have migrated after such commencement to the Institute incorporated under this Ordinance and be registered with the said Institute for grant of the same degree or diploma by the Institute and such person shall be deemed to have migrated and registered with the Institute incorporated under this Ordinance at the same level of study in the Society from which such person is deemed to have migrated.

6. (1) Subject to the provisions of this Ordinance, the Institute shall exercise the following powers and perform the following functions, namely:- **Powers and functions of Institute.**

(a) to provide for instruction and research in such branches of engineering and technology, management, education, sciences and arts, as the Institute may think fit, and for the advancement of learning and dissemination of knowledge in such branches;

(b) to hold examinations and grant degrees, diplomas and other academic distinctions or titles;

(c) to confer honorary degrees or other distinctions;

(d) to fix, demand and receive fees and other charges;

(e) to establish, maintain and manage halls and hostels for the residence of students;

(f) to supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(g) to provide for the maintenance of units of the National Cadet Corps for the students of the Institute;

(h) to create administrative, technical, ministerial, academic and other posts with the prior approval of the Central Government, and to make appointments thereto (except in the case of the Director),

(i) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(j) to deal with any property belonging to or vested in the Institute in such manner as the Institute may deem fit for advancing the objects of the Institute;

(k) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of moveable or immovable properties from testators, donors or transferors, as the case may be;

(l) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(m) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(n) to undertake consultancy in the areas or disciplines relating to the Institute; and

(o) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

(2) Notwithstanding anything contained in sub-section (1), the Institute shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

7. (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever. **Institute to be open to all races, creeds and classes.**

(2) No bequest, donation or transfer of any property shall be accepted by the Institute which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

8. All teaching at the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf. **Teaching at Institute.**

9. (1) The President of India shall be the Visitor of the Institute. **Visitor.**

(2) The Visitor may appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as the Visitor considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

10. The following shall be the authorities of the Institute, namely:- **Authorities of Institute.**

(a) Board of Governors;

(b) Senate; and

(c) such other authorities as may be declared by the Statutes to be the authorities of the Institute

Board of
Governors.

11. The Board of Governors of the Institute shall consist of the following members, namely :-

- (a) the Chairperson, to be nominated by the Visitor;
- (b) the Director, *ex officio*;
- (c) one person to be nominated by the Government of Tamil Nadu;
- (d) for persons to be nominated by the Central Government having special knowledge or practical experience in respect of engineering education, industry, information technology, design and manufacturing industries,
- (e) one professor to be nominated by the Senate;
- (f) one nominee of the Ministry in the Central Government dealing with Technical Education; and
- (g) one nominee of the Ministry in the Central Government dealing with Information Technology;

Terms of office
of, vacancies
among and
allowances
payable to,
members of
Board.

12. (1) Save as otherwise provided in this section, the term of office of the Chairperson or other members of the Board shall be three years from the date of his nomination.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member nominated under clause (e) of section 11 shall be two years from the 1st day of January of the year in which he is nominated.

(4) The term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(5) Notwithstanding anything contained in this section, an outgoing member shall, unless the Board otherwise directs, continue in office until another person is nominated as a member in his place.

(6) The members of the Board shall be entitled to such allowances, if any, from the Institute as may be provided for in the Statutes but no member other than the members referred to in clauses (b) and (e) of section 11 shall be entitled to any salary by reason of this sub-section.

(7) A member may resign his office by writing under his hand addressed to the Central Government but he shall continue in office until his resignation is accepted by that Government.

Powers and
functions of
Board.

13. (1) Subject to the provisions of this Ordinance, the Board of the Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers of the Institute not otherwise provided for by this Ordinance, the Statutes and the Ordinances and shall have the power to review the acts of the Senate.

(2) Without prejudice to the provisions of sub-section (1), the Board shall,-

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) institute courses of study at the Institute;

(c) make Statutes;

(d) institute and appoint persons to academic as well as other posts in the Institute;

(e) consider and modify or cancel Ordinances;

(f) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute;

(g) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Ordinance or the Statutes.

(3) The Board shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Ordinance.

Senate.

14. The Senate of the Institute shall consist of the following persons, namely :-

(a) the Director, *ex officio*, who shall be the Chairman of the Senate;

(b) the Professors appointed or recognised as such by the Institute for the purpose of imparting instructions in the Institute;

(c) three persons, not being employees of the Institute, to be nominated by the Board from among educationists of repute, one each from the fields of science, engineering and humanities; and

(d) such other members of the staff as may be laid down in the Statutes.

15. Subject to the provisions of this Ordinance, the Statutes and the Ordinances, the Senate shall be the principal academic body of the Institute and shall have control over and be responsible for maintenance of standards of education, teaching and training, inter-departmental coordination, research, examinations and tests within the Institute and shall exercise such other powers and discharge such other duties and functions as may be prescribed or conferred upon it by the Statutes. Functions of senate.

16. (1) The Chairperson shall preside at the meetings of the Board and at convocations of the Institute. Powers and functions of Chairperson.

(2) It shall be the duty of the Chairperson to ensure that decisions taken by the Board are implemented.

(3) The Chairperson shall exercise such powers and perform such duties as may be assigned to him by or under this Ordinance, Statutes or by resolution of the Board.

17. (1) The Director of the Institute shall be appointed by the Visitor, on whose directions the Board shall issue an order of appointment. Director.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for proper administration of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such powers and perform such other duties as may be assigned to him by this Ordinance, the Statutes or Ordinances or by resolution of the Board.

18. (1) The appointment of the Registrar of the Institute shall be on such terms and conditions as laid down by the Statutes. Registrar.

(2) The Registrar shall be the custodian of records, the common seal, the funds of the Institute and the property of the Institute, as the Board shall commit to his charge.

(3) The Registrar shall act as the Secretary of the Board and such committees, as may be prescribed by the Statutes.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Ordinance or the Statutes or the Board or the Director and in exercising such powers and in performing such duties, he shall be responsible to the Director for the proper discharge of his functions.

19. The powers and duties of officers other than those mentioned in this Chapter shall be determined by the Statutes. Other authorities and officers.

20. For the purpose of enabling the Institute to discharge its functions efficiently under this Ordinance, the Central Government may after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit. Grants by Central Government.

21. (1) The Institute shall maintain a fund to which the following shall be credited, namely:- Funds of Institute.

(a) all moneys provided by the Central Government or any State Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund of the Institute shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund of the Institute shall be applied towards meeting the expenses of the Institute, including expenses incurred in the exercise of its powers and discharge of its duties under this Ordinance.

**Accounts and
audit.**

22. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form as may be specified, by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the rights to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.

**Pension and
provident
Fund.**

23. (1) The Institute shall constitute for the benefit of its employees, including the Director in such manner and subject to such conditions as may be prescribed by the Statutes, such pension and provident funds and provide such insurance scheme as it may deem fit.

19 of 1925.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

Appointments.

24. All appointments of the staff of the Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes, by --

(a) the Board, if the appointment is made on the -

(i) academic staff in the post of Associate Professor or above; or

(ii) non-academic staff in any cadre up to a scale of pay as decided by the

Board; and

(b) the Director, in other cases.

Statutes.

25. Subject to the provisions of this Ordinance, the Statutes may provide for all or any of the following matters, namely:-

(a) the conferment of honorary degrees;

(b) the formation of departments or divisions of teaching;

(c) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees and diplomas of the Institute;

(d) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(e) the term of office and the method of appointment of officers of the Institute;

(f) the qualifications of teachers of the Institute;

(g) the classifications, the method of appointment and the determination of the terms and conditions of service of teachers and other staff of the Institute;

(h) the constitution of pension and provident funds and insurance scheme for the benefit of the officers, teachers and other staff of the Institute;

(i) the constitution, powers and duties of the authorities of the Institute;

(j) the establishment and maintenance of halls and hostels;

(k) the conditions of residence of students of the Institute and the levying of fees for residence in the halls and hostels and of other charges ;

(l) the allowances to be paid to the Chairperson and members of the Board;

(m) the authentication of the orders and decisions of the Board;

(n) the meetings of the Board, the Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business;

(o) any other matter which by this Ordinance is to be or may be prescribed by the Statutes.

26. (1) The first Statutes of the Institute shall be framed by the Central Government Statutes, how with the previous approval of the Visitor and a copy of the same shall be laid as soon as may made. be before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner provided in this section.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of Statute shall require the previous approval of the Visitor who may assent thereto or withhold assent or remit it to the Board for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

27. Subject to the provisions of this Ordinance and the Statutes, the Ordinances of the Institute may provide for all or any of the following matters, namely: -

- (a) the admission of the students to the Institute;
- (b) the courses of study to be laid down for all degrees and diplomas of the Institute;
- (c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;
- (d) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;
- (e) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;
- (f) the conduct of examinations;
- (g) the maintenance of discipline among the students of the Institute; and
- (h) any other matter which by this Ordinance or the Statutes is or may be provided for by the Ordinances.

28. (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate. Ordinances how made.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

29. (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor. Tribunal of Arbitration.

(2) The decision of the Tribunal shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter, which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER III MISCELLANEOUS

30. The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Ordinance. Control by Central Government.

31. No act of the Institute or Board or Senate or any other body set up under this Ordinance or the Statutes shall be invalid merely by reason of- Acts and proceedings not to be invalidated by vacancies, etc.

- (a) any vacancy in or defect in the constitution thereof; or
- (b) any defect in the selection, nomination or appointment of a person acting as a member thereof; or
- (c) any irregularity in its procedure not affecting the merits of the case.

Power to
remove
difficulties.

32. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each of House of Parliament.

Transitional
Provisions.

33. Notwithstanding anything contained in this Ordinance -

(a) the Board of Governors of the institute functioning as such immediately before the commencement of this Ordinance shall continue to so function until a new Board is constituted for the Institute under this Ordinance, but on the constitution of a new Board under this Ordinance, the members of the Board holding office before such constitution shall cease to hold office;

(b) the Senate constituted in relation to the Institute before the commencement of this Ordinance shall be deemed to be the Senate constituted under this Ordinance until a Senate is constituted under this Ordinance for the Institute, but on the constitution of the new Senate under this Ordinance, the members of the Senate holding office before such constitution shall cease to hold office.

Sd/-

Pratibha Devisingh Patil
President

V. K. Bhasin
Secretary to the Government of India

By order and in the name of the Governor of Gujarat,

C. J. Gothi
Secretary to Government

CORRIGENDA

In the Gazette of India, Extraordinary, Part II, Section 1, issued as Issue No. 37, published on Vaisakha 29, 1925 (Saka) publishing the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (34 of 2003), in the Block of the Gazette occurring on page 1,-

(i) for "मई 19, 2002", read "मई 19, 2003";

(ii) for "May 19, 2002", read "May 19, 2003".



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 16th August, 2011.

No. RPB/1-2011/Act-1-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 14th January, 2010. Pausa 24, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 13th January, 2010, is hereby published for general information :-

THE LEGAL METROLOGY ACT, 2009

AN ACT

(Act No. 1 of 2010)

[13th January, 2010]

An Act to establish and enforce standards of weights and measures, regulate trade and commerce in weights, measures and other goods which are sold or distributed by weight, measure or number and for matters connected there with or incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. (1) This Act may be called the Legal Metrology Act, 2009.
- (2) It extends to the Whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.
2. In this Act, unless the context otherwise requires,—
 - (a) "Controller" means the Controller of Legal Metrology appointed under section 14;
 - (b) "dealer", in relation to any weight or measure, means a person who, carries on, directly or otherwise, the business of buying, selling, supplying or distributing

Short title
extend and
commencement.

Definitions.

any such weight or measure, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes a commission agent, an importer, a manufacturer, who sells, supplies, distributes or otherwise delivers any weight or measure manufactured by him to any person other than a dealer;

(c) "Director" means the Director of Legal Metrology appointed under section 13;

(d) "export" with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(e) "import" with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(f) "label" means any written, marked, stamped, printed or graphic matter affixed to, or appearing upon any pre-packaged commodity;

(g) "Legal Metrology" means that part of metrology which treats units of weightment and measurement, methods of weightment and measurement and weighing and measuring instruments, in relation to the mandatory technical and legal requirements which have the object of ensuring public guarantee from the point of view of security and accuracy of the weightments and measurements;

(h) "legal metrology officer" means Additional Director, Additional Controller, Joint Director, Joint Controller, Deputy Director, Deputy Controller, Assistant Director, Assistant Controller and Inspector appointed under sections 13 and 14;

(i) "manufacturer" in relation to any weight or measure, means a person who —

(i) manufactures weight or measure;

(ii) manufactures one or more parts, and acquires other parts, of such weight or measure and, after assembling those parts, claims the end product to be a weight or measure manufactured by himself or itself, as the case may be;

(iii) does not manufacture any part of such weight or measure but assembles parts thereof manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be;

(iv) puts, or causes to be put, his own mark on any complete weight or measure made or manufactured by any other person and claims such product to be a weight or measure made or manufactured by himself or itself, as the case may be;

(j) "notification" means a notification published in the Official Gazette;

(k) "protection" means the utilisation of reading obtained from any weight or measure, for the purpose of determining any step which is required to be taken to safeguard the well-being of any human being or animal, or to protect any commodity, vegetation or thing, whether individually or collectively;

(l) "pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity;

(m) "person" includes, —

(i) a Hindu undivided family,

(ii) every department or office,

(iii) every organisation established or constituted by Government,

(iv) every local authority within the territory of India,

(v) a company, firm and association of individuals,

(vi) trust constituted under an Act,

21 of 1860.

(vii) every co-operative society, constituted under an Act,

(viii) every other society registered under the Societies Registration Act, 1860;

(n) "premises" includes—

(i) a place where any business, industry, production or transaction is carried on by a person, whether by himself or through an agent, by whatever name called; including the person who carries on the business in such premises,

(ii) a warehouse, godown or other place where any weight or measure or other goods are stored or exhibited,

(iii) a place where any books of account or other documents pertaining to any trade or transaction are kept,

(iv) a dwelling house, if any part thereof is used for the purpose of carrying on any business, industry, production or trade,

(v) a vehicle or vessel or any other mobile device, with the help of which any transaction or business is carried on;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "repairer" means a person who repairs a weight or measure and includes a person who adjusts, cleans, lubricates or paints any weight or measure or renders any other service to such weight or measure to ensure that such weight or measure conforms to the standards established by or under this Act;

(q) "State Government", in relation to a Union territory, means the Administrator thereof;

(r) "sale", with its grammatical variations and cognate expressions, means transfer of property in any weight, measure or other goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes a transfer of any weight, measure or other goods on the hire-purchase system or any other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on, such weight, measure or other goods;

(s) "seal" means a device or process by which a stamp is made, and includes any wire or other accessory which is used for ensuring the integrity of any stamp;

(t) "stamp" means a mark, made by impressing, casting, engraving, etching, branding, affixing pre-stressed paper seal or any other process in relation to, any weight or measure with a view to—

(i) certifying that such weight or measure conforms to the standard specified by or under this Act, or

(ii) indicating that any mark which was previously made thereon certifying that such weight or measure conforms to the standards specified by or under this Act, has been obliterated;

(u) "transaction" means,—

(i) any contract, whether for sale, purchase, exchange or any other purpose,

or

(ii) any assessment of royalty, toll, duty or other dues, or

(iii) the assessment of any work done, wages due or services rendered;

(v) "verification", with its grammatical variations and cognate expressions, includes, in relation to any weight or measure, the process of comparing, checking, testing or adjusting such weight or measure with a view to ensuring that such weight or measure conforms to the standards established by or under this Act and also includes re-verification and calibration;

(w) "weight or measure" means a weight or measure specified by or under this Act and includes a weighing or measuring instrument.

Provisions of this Act to override provisions of any other law.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

CHAPTER II

STANDARD WEIGHTS AND MEASURES

Units of weights and measures to be based on metric system.

4. Every unit of weight or measure shall be in accordance with the metric system based on the international system of units.

Base unit of weights and measures.

5. (1) The base unit of —

- (i) length shall be the metre;
- (ii) mass shall be the kilogram;
- (iii) time shall be the second;
- (iv) electric current shall be the ampere;
- (v) thermodynamic temperature shall be the kelvin;
- (vi) luminous intensity shall be the candela; and
- (vii) amount of substance shall be the mole.

(2) The specifications of the base units mentioned in sub-section (1), derived units and other units shall be such as may be prescribed.

Base unit of numeration.

6. (1) The base unit of numeration shall be the unit of the international form of Indian numerals.

(2) Every numeration shall be made in accordance with the decimal system.

(3) The decimal multiples and sub-multiples of the numerals shall be of such denominations and be written in such manner as may be prescribed.

Standard units of weights and measures.

7. (1) The base units of weights and measures specified in section 5 shall be the standard units of weights and measures.

(2) The base unit of numeration specified in section 6 shall be the standard unit of numeration.

(3) For the purpose of deriving the value of base, derived and other units mentioned in section 5, the Central Government shall prepare or cause to be prepared objects or equipments in such manner as may be prescribed.

(4) The physical characteristics, configuration, constructional details, materials, equipments, performance, tolerances, period of re-verification, methods or procedures of tests shall be such as may be prescribed.

Standard weight, measure or numeral.

8. (1) Any weight or measure which conforms to the standard unit of such weight or measure and also conforms to such of the provisions of section 7 as are applicable to it shall be the standard weight or measure.

(2) Any numeral which conforms to the provisions of section 6 shall be the standard numeral.

(3) No weight, measure or numeral, other than the standard weight, measure or numeral, shall be used as a standard weight, measure or numeral.

(4) No weight or measure, shall be manufactured or imported unless it conforms to the standards of weight or measure specified under section 8:

Provided that provisions of this section shall not apply for manufacture done exclusively for export or for the purpose of any scientific investigation or research.

9. (1) The reference standards, secondary standards and working standards of weights and measures shall be such as may be prescribed.

Reference, secondary and working standard.

(2) Every reference standard, secondary standard and working standard shall be verified and stamped in such manner and after payment of such fee as may be prescribed.

(3) Every reference standard, secondary standard and working standard which is not verified and stamped in accordance with the provisions of sub-section (2) shall not be deemed to be a valid standard.

10. Any transaction, dealing or contract in respect of any goods, class of goods or undertakings shall be made by such weight, measure or number as may be prescribed.

Use of weight or measure for particular purposes.

11. (1) No person shall, in relation to any goods, things or service,—

(a) quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or

(b) issue or exhibit any price list, invoice, cash memo or other document, or

(c) prepare or publish any advertisement, poster or other document, or

(d) indicate the net quantity of a pre-packaged commodity, or

(e) express in relation to any transaction or protection, any quantity or dimension,

otherwise than in accordance with the standard unit of weight, measure or numeration.

Prohibition of quotation, etc., otherwise than in terms of standard units of weight, measure or numeration.

(2) The provisions of sub-section (1) shall not be applicable for export of any goods, things or service.

12. Any custom, usage, practice or method of whatever nature which permits a person to demand, receive or cause to be demanded or received, any quantity of article, thing or service in excess of or less than, the quantity specified by weight, measure or number in the contract or other agreement in relation to the said article, thing or service, shall be void.

Any custom, usage, etc., contrary to standard weight, measure or numeration to be void.

CHAPTER III

APPOINTMENT AND POWERS OF DIRECTOR, CONTROLLER AND LEGAL METROLOGY OFFICERS

13. (1) The Central Government may, by notification, appoint a Director of legal metrology, Additional Director, Joint Director, Deputy Director, Assistant Director and other employees for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to inter-State trade and commerce.

Appointment of Director, legal metrology officers and other employees.

(2) The qualifications of the Director and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Director and every legal metrology officer, appointed under sub-section (1), shall exercise such powers and discharge such functions in respect of such local limits as the Central Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise powers and discharge duties under the general superintendence, direction and control of the Director.

(5) The Director, the Controller and every legal metrology officer authorised to perform any duty by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(6) No suit, prosecution or other legal proceeding shall lie against the Director, the Controller and legal metrology officer authorised to perform any duty by or under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(7) The Central Government may, with the consent of the State Government and subject to such conditions, limitations and restrictions as it may specify in this behalf, delegate such of the powers of the Director under this Act as it may think fit to the Controller of legal metrology in the State, and such Controller may, if he is of opinion that it is necessary or expedient in the public interest so to do, delegate such of the powers delegated to him as he may think fit to any legal metrology officer and where any such delegation of powers is made by such Controller, the person to whom such powers are delegated shall exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by way of delegation.

(8) Where any delegation of powers is made under sub-section (7), the powers so delegated shall be exercised under the general superintendence, direction and guidance of the Director.

Appointment
of Controller,
legal
metrology
officers and
other
employees.

14. (1) The State Government may, by notification, appoint a Controller of legal metrology, Additional Controller, Joint Controller, Deputy Controller, Assistant Controller, Inspector and other employees for the State for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to intra State trade and commerce.

(2) The qualifications of the Controller and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Controller and every legal metrology officer, appointed under sub-section (1), shall exercise such powers and discharge such functions in respect of such local limits as the State Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise and discharge the duties under the general superintendence, direction and control of the Controller.

Power of
inspection,
seizure, etc.

15. (1) The Director, Controller or any legal metrology officer may, if he has any reason to believe, whether from any information given to him by any person and taken down in writing or from personal knowledge or otherwise, that any weight or measure or other goods in relation to which any trade and commerce has taken place or is intended to take place and in respect of which an offence punishable under this Act appears to have been, or is likely to be, committed are either kept or concealed in any premises or are in the course of transportation,—

(a) enter at any reasonable time into any such premises and search for and inspect any weight, measure or other goods in relation to which trade and commerce has taken place, or is intended to take place and any record, register or other document relating thereto;

(b) seize any weight, measure or other goods and any record, register or other document or article which he has reason to believe may furnish evidence indicating that an offence punishable under this Act has been, or is likely to be, committed in the course of, or in relation to, any trade and commerce.

(2) The Director, Controller or any legal metrology officer may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person having the custody of such weight or measure shall comply with such requisition.

(3) Where any goods seized under sub-section (1) are subject to speedy or natural decay, the Director, Controller or legal metrology officer may dispose of such goods in such manner as may be prescribed.

2 of 1974. (4) Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures.

16. (1) Every non-standard or unverified weight or measure, and every package made in contravention of section 18, used in the course of, or in relation to, any trade and commerce and seized under section 15, shall be liable to be forfeited to the State Government;

Forfeiture.

Provided that such unverified weight or measure shall not be forfeited to the State Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may be prescribed.

(2) Every weight, measure or other goods seized under section 15 but not forfeited under sub-section (1), shall be disposed of by such authority and in such manner as may be prescribed.

17. (1) Every manufacturer, repairer or dealer of weight or measure shall maintain such records and registers as may be prescribed.

Manufacturers, etc., to maintain records and registers.

(2) The records and registers maintained under sub-section (1) shall be produced at the time of inspection to the persons authorised for the said purpose under sub-section (1) of section 15.

18. (1) No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.

Declarations on pre-packaged commodities.

(2) Any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the net quantity or number of the commodity contained in the package in such form and manner as may be prescribed.

19. No person shall import any weight or measure unless he is registered with the Director in such manner and on payment of such fees, as may be prescribed.

Registration for importer of weight or measure.

20. No weight or measure, whether singly or as a part or component of any machine shall be imported unless it conforms to the standards of weight or measure established by or under this Act.

Non-standard weights and measures not to be imported.

21. (1) For imparting training in Legal Metrology and other allied branches of knowledge the "Indian Institute of Legal Metrology" (hereinafter referred to as the "Institute") established under the provisions of the Standards of Weights and Measures Act, 1976, shall be deemed to have been established under the corresponding provisions of this Act.

Training in Legal Metrology.

60 of 1976.

(2) The management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto shall be such as may be prescribed.

22. Every person, before manufacturing or importing any weight or measure shall seek the approval of model of such weight or measure in such manner, on payment of such fee and from such authority as may be prescribed:

Approval of model.

Provided that such approval of model may not be required in respect of any cast iron, brass, bullion, or carat weight or any beam scale, length measures (not being measuring tapes) which are ordinarily used in retail trade for measuring textiles or timber, capacity measures, not exceeding twenty litre in capacity, which are ordinarily used in retail trade for measuring kerosene, milk or potable liquors:

Prohibition
on
manufacture,
repair or sale
of weight or
measure
without
licence.

Provided further that the prescribed authority may, if he is satisfied that the model of any weight or measure which has been approved in a country outside India conforms to the standards established by or under this Act, approve such model without any test or after such test as he may deem fit.

23. (1) No person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller under sub-section (2):

Provided that no licence to repair shall be required by a manufacturer for repair of his own weight or measure in a State other than the State of manufacture of the same.

(2) For the purpose of sub-section (1), the Controller shall issue a licence in such form and manner, on such conditions, for such period and such area of jurisdiction and on payment of such fee as may be prescribed.

CHAPTER IV

VERIFICATION AND STAMPING OF WEIGHT OR MEASURE

Verification
and stamping
of weight or
measure.

24. (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or is likely to be, used by him in any transaction or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf, on payment of such fees as may be prescribed.

(2) The Central Government may prescribe the kinds of weights and measures for which the verification is to be done through the Government approved Test Centre.

(3) The Government approved Test Centre shall be notified by the Central Government or the State Government, as the case may be, in such manner, on such terms and conditions and on payment of such fee as may be prescribed.

(4) The Government approved Test Centre shall appoint or engage persons having such qualifications and experience and collect such fee on such terms and conditions for the verification of weights and measures specified under sub-section (2) as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

Penalty for use
of non-
standard weight
or measure.

25. Whoever uses or keeps for use any weight or measure or makes use of any numeration otherwise than in accordance with the standards of weight or measure or the standard of numeration, as the case may be, specified by or under this Act, shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine.

Penalty for
alteration of
weight and
measure.

26. Whoever tampers with, or alters in any way, any reference standard, secondary standard or working standard or increases or decreases or alters any weight or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby, except where such alteration is made for the correction of any error noticed therein on verification, shall be punished with fine which may extend to fifty thousand rupees and for the second and subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to one year or with fine or with both.

Penalty for
manufacture or
sale of non-
standard weight
or measure.

27. Every person who manufactures or causes to be manufactured or sells or offers, exposes or possesses for sale, any weight or measure which,—

(a) does not conform to the standards of weight or measure specified by or under this Act; or

(b) which bears thereon any inscription of weight, measure or number which does not conform to the standards of weight, measure or numeration specified by or under this Act,

except where he is permitted to do so under this Act, shall be punished with a fine which may extend to twenty thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to three years or with fine or with both.

28. Whoever makes any transaction, deal or contract in contravention of the standards of weights and measures specified under section 10 shall be punished with fine which may extend to ten thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for making any transaction, deal or contract in contravention of the prescribed standards.

29. Whoever violates section 11 shall be punished with fine which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for quoting or publishing, etc., of non-standard units.

30. Whoever—

(a) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or

(b) in rendering any service by weight, measure or number, renders that service less than the service contracted for or paid for; or

(c) in buying any article or thing by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or

(d) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for,

Penalty for transactions in contravention of standard weight or measure.

shall be punished with fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

31. Whoever, being required by or under this Act or the rules made thereunder to submit returns, maintain any record or register, or being required by the Director or the Controller or any legal metrology officer to produce before him for inspection any weight or measure or any document, register or other record relating thereto, omits or fails without any reasonable excuse, so to do, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for non-production of documents, etc.

32. Whoever fails or omits to submit model of any weight or measure for approval, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for failure to get model approved.

33. Whoever, sells, distributes, delivers or otherwise transfers or uses any unverified weight or measure shall be punished with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for use of unverified weight or measure.

34. Whoever sells, or causes to be sold, delivers, or causes to be delivered, any commodity, article or thing by any means other than the standard weight or measure or number, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both.

Penalty for sale or delivery of commodities, etc., by non-standard weight or measure.

Penalty for rendering services by non-standard weight, measure or number.

Penalty for selling, etc., of non-standard packages.

Penalty for contravention by Government approved Test Centre.

Penalty for non-registration by importer of weight or measure

Penalty for import of non-standard weight or measure:

Penalty for obstructing Director, Controller or legal metrology officer.

Penalty for giving false information or false return.

35. Whoever renders or causes to be rendered, any service through means other than the weight or measure or numeration or in terms of any weight, measure or number other than the standard weight or measure, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both.

36. (1) Whoever manufactures, packs, imports, sells, distributes, delivers or otherwise transfers, offers, exposes or possesses for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any pre-packaged commodity which does not conform to the declarations on the package as provided in this Act, shall be punished with fine which may extend to twenty-five thousand rupees, for the second offence, with fine which may extend to fifty thousand rupees and for the subsequent offence, with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

(2) Whoever manufactures or packs or imports or causes to be manufactured or packed or imported, any pre-packaged commodity, with error in net quantity as may be prescribed shall be punished with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees and for the second and subsequent offence, with fine which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

37. (1) Where any Government approved Test Centre contravenes any of the provisions of this Act or the rules made thereunder, or the conditions of the licence, it shall be punished with fine which may extend to one lakh rupees.

(2) Where any owner or employee of a Government Approved Test Centre performing duties in accordance with the provisions of this Act or the rules made thereunder, wilfully verifies or stamps any weight or measure in contravention of the provisions of this Act or the rules made thereunder, he shall, for every such contravention, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

38. Whoever imports any weight or measure without being registered under this Act shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

39. Whoever imports any non-standard weight or measure shall be punished with fine, which may extend to fifty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

40. Whoever obstructs the Director, the Controller or any legal metrology officer with intent to prevent or deter the Director or the Controller or any legal metrology officer from exercising his powers or discharging his functions, or in consequence of anything done or attempted to be done by the Director or the Controller or any legal metrology officer in the lawful exercise of his powers or discharge of his functions as such, or whoever obstructs the entry of the Director or the Controller or any legal metrology officer into any premises for inspection and verification of any weight or measure or any document or record relating thereto or the net contents of any packaged commodity or for any other purpose shall be punished with imprisonment for a term which may extend to two years and for the second or subsequent offence, with imprisonment for a term which may extend to five years.

41. (1) Whoever gives any information to the Director, the Controller or any legal metrology officer, which he may require or ask for in the course of his duty, and which such person either knows or has reason to believe to be false, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to six months and also with fine.

(2) Whoever, being required by or under this Act so to do, submits a return or maintains any record or register which is false in material particulars, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

42. The Director, the Controller or any legal metrology officer, exercising powers under this Act or any rule made thereunder, who knows that there are no reasonable grounds for so doing, and yet—

Vexatious search.

- (a) searches, or causes to be searched, any house, conveyance or place; or
- (b) searches any person; or
- (c) seizes any weight, measure or other movable property;

shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

43. Where the Controller or any legal metrology officer, exercising powers under this Act or any rule made thereunder, wilfully verifies or stamps any weight or measure, in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

Penalty for verification in contravention of Act and rules.

44. (1) Whoever—

Penalty for counterfeiting of seals, etc.

(i) counterfeits any seal specified by or under this Act or the rules made thereunder, or

(ii) sells or otherwise disposes of any counterfeit seal, or

(iii) possesses any counterfeit seal, or

(iv) counterfeits or removes or tampers with any stamp, specified by or under this Act or rules made thereunder, or

(v) affixes the stamp so removed on, or inserts the same into, any other weight or measure,

shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

45 of 1860. *Explanation.*—In this sub-section, “counterfeit” shall have the meaning assigned to it in section 28 of the Indian Penal Code.

(2) Whoever obtains, by unlawful means, any seal specified by or under this Act or the rules made thereunder and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the rules made thereunder shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(3) Whoever, being in lawful possession of a seal specified by or under this Act or the rules made thereunder, uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(4) Whoever sells or offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe, bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

45. Whoever, being required to obtain a licence under this Act or the rules made thereunder, manufactures, without being in possession of a valid licence, any weight or measure, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for manufacture of weight and measure without licence.

Penalty for repair, sale, etc., of weight and measure without licence.

Penalty for tampering with licence.

Compounding of offences.

Offences by companies and power of court to publish name, place of business, etc., for companies convicted.

46. Whoever, being required to obtain a licence under this Act or the rules made thereunder repairs or sells or offers, exposes or possesses for repair or sale, any weight or measure, without being in possession of a valid licence, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

47. Whoever alters or otherwise tampers, with any licence issued or renewed under this Act or rules made thereunder, otherwise than in accordance with any authorisation made by the Controller in this behalf, shall be punished with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one year or with both.

48. (1) Any offence punishable under section 25, sections 27 to 39, sections 45 to 47, or any rule made under sub-section (3) of section 52 may, either before or after the institution of the prosecution, be compounded, on payment for credit to the Government of such sum as may be prescribed.

(2) The Director or legal metrology officer as may be specially authorised by him in this behalf, may compound offences punishable under section 25, sections 27 to 39, or any rule made under sub-section (3) of section 52.

(3) The Controller or legal metrology officer specially authorised by him, may compound offences punishable under section 25, sections 27 to 31, sections 33 to 37, sections 45 to 47, and any rule made under sub-section (3) of section 52:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine, which may be imposed under this Act for the offence so compounded:

(4) Nothing in sub-section (1) shall apply to person who commits the same or similar offence, within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation.—For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(5) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded.

(6) No offence under this Act shall be compounded except as provided by this section.

49. (1) Where an offence under this Act has been committed by a company,—

(a) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereinafter in this section referred to as a person responsible); or

(ii) where no person has been nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and

(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Any company may, by order in writing, authorise any of its directors to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Director or the concerned Controller or any legal metrology officer authorised in this behalf.

by such Controller (hereinafter in this section referred to as the authorised officer) in such form and in such manner as may be prescribed, that it has nominated such director as the person responsible, alongwith the written consent of such director for being so nominated.

Explanation.—Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(3) The person nominated under sub-section (2) shall, until—

(i) further notice cancelling such nomination is received from the company by the Director or the concerned Controller or the authorised officer; or

(ii) he ceases to be a director of the company; or

(iii) he makes a request in writing to the Director or the concerned Controller or the legal metrology officer under intimation to the company, to cancel the nomination, which request shall be complied with by the Director or the concerned Controller or the legal metrology officer,

whichever is the earliest, continue to be the person responsible:

Provided that where such person ceases to be a director of the company, he shall intimate the fact of such cessation to the Director or the concerned Controller or the authorised officer:

Provided further that where such person makes a request under clause (iii) the Director or the concerned Controller or the authorised officer shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to the neglect on the part of, any director, manager, secretary or other officer, not being a person nominated under sub-section (2), such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where any company is convicted under this Act for contravention of any of the provisions thereof, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspaper or in such other manner, as the court may direct.

(6) No publication under sub-section (5) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(7) The expenses of any publication under sub-section (5) shall be recoverable from the company as if it were a fine imposed by the court.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm but excludes nominated directors, honorary directors, Government nominated directors.

50. (1) Subject to the provisions of sub-section (2), an appeal shall lie,—

(a) from every decision or order under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52 by the legal metrology officer appointed under section 13, to the Director;

Appeals.

(b) from every decision or order made by the Director of Legal Metrology under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52, to the Central Government or any officer specially authorised in this behalf by that Government;

(c) from every decision given by the Controller of Legal Metrology under delegated powers of Director Legal Metrology to the Central Government;

(d) from every decision given or order made under sections 15 to 18, sections 23 to 25, sections 27 to 37, sections 45 to 47 or any rule made under sub-section (3) of section 52 by any legal metrology officer appointed under section 14, to the Controller; and

(e) from every decision given or order made by the Controller under sections 15 to 18, sections 23 to 25, sections 27 to 37, sections 45 to 47 or any rule made under sub-section (3) of section 52 not being an order made in appeal under clause (d), to the State Government or any officer specially authorised in this behalf by that Government.

(2) Every such appeal shall be preferred within sixty days from the date on which the impugned order was made:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal, a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the decision or order appealed against or may send back the case with such direction as it may think fit for a fresh decision or order after taking additional evidence, if necessary.

(4) Every appeal shall be preferred on payment of such fees, as may be prescribed.

(5) The Central Government or the State Government, as the case may be, may on its own motion or otherwise, call for and examine the record of any proceeding including a proceeding in appeal in which any decision or order has been made, for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given a reasonable opportunity of showing cause against the proposed action.

Provisions of Indian Penal Code and Code of Criminal Procedure not to apply. Power of the Central Government to make rules.

51. The provisions of the Indian Penal Code and section 153 of the Code of Criminal Procedure, 1973 in so far as such provisions relate to offences with regard to weight or measure, shall not apply to any offence which is punishable under this Act.

45 of 1860.
2 of 1974.

52. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the specification of the base units of measures and base unit of mass under sub-section (2) of section 5;

(b) the manner of preparation of objects and equipments under sub-section (3) of section 7;

(c) physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, period of re-verification, methods or procedures of tests under sub-section (4) of section 7;

(d) reference standards, secondary standards and working standards of weights and measures under sub-section (1) of section 9;

(e) reference standards, secondary standards and working standards shall be verified and stamped and the fee under sub-section (2) of section 9;

(f) the weight or measure or number in which any transaction, dealing, or contract in respect of any goods, class of goods or undertakings shall be made under section 10;

(g) the qualifications of the Director and legal metrology officers under sub-section (2) of section 13;

(h) the qualification of the Controller and legal metrology officers under sub-section (2) of section 14;

(i) the manner of disposal of goods under sub-section (3) of section 15;

(j) the standard quantities or number and the manner in which the packages shall bear the declarations and the particulars under sub-section (1) of section 18;

(k) the manner and registration and the fee under section 19;

(l) the management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto under sub-section (2) of section 21;

(m) the manner, fee and authority for approval of models under section 22;

(n) the kinds of weights or measures under sub-section (2) of section 24;

(o) the manner in which, terms and conditions on which and fee on payment which the Central Government shall notify the Government approved Test Centre under sub-section (3) of section 24;

(p) the qualifications and experience of persons appointed or engaged and the fee and terms and conditions on which Government approved Test Centre shall verify the weight or measure under sub-section (4) of section 24;

(q) the error in net quantity under sub-section (2) of section 36;

(r) fee for compounding of offence under sub-section (1) of section 48;

(s) form and manner in which notice to the Director or the Controller or any other officer authorised by him shall be given under sub-section (2) of section 49.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

53. (1) The State Government may, by notification, and after consultation with the Central Government, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which the weight or measure may be got verified under provision to sub-section (1) of section 16;

(b) registers and records to be maintained by persons referred to under sub-section (1) of section 17;

(c) the form, manner, conditions, period, area of jurisdiction and fees for issuance of licence under sub-section (2) of section 23;

Power of
State
Government
to make rules.

(d) fee for verification and stamping of any weight or measure under sub-section (1) of section 24;

(e) manner of notifying Government approved Test Centre, terms and conditions and fee to be paid under sub-section (3) of section 24;

(f) fee for compounding of offences under sub-section (1) of section 48.

(3) In making any rule under this section, the State Government may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication in Official Gazette.

(5) Every rule made under this section shall, as soon as may be after it is made, be laid before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

Delegation of Powers.

54. (1) The Central Government may, in consultation with the State Government and by notification, direct that any power exercisable by it under this Act or any rule made thereunder, not being a power conferred by section 50 relating to appeal or section 52 relating to power to make rules, in relation to such matters and subject to such conditions as may be specified, may be exercised also by such officer subordinate to it as may be specified in the notification.

(2) Subject to any general or special direction or condition imposed by the State Government, any person authorised by the Central Government to exercise any powers may exercise those powers in the same manner and to the same extent as if they had been conferred on that person directly by this Act and not by way of delegation.

Act not to apply in certain cases.

55. The provisions of this Act, in so far as they relate to verification and stamping of weights and measures, shall not apply to any weight or measure,—

(a) used in any factory exclusively engaged in the manufacture of any arms, ammunition or both, for the use of the Armed Forces of the Union;

(b) used for scientific investigation or for research;

(c) manufactured exclusively for export.

Existing Director, Controller and legal metrology officer not to be affected by the new qualification to be prescribed.

56. (1) Every Director, Controller and legal metrology officer appointed immediately before the commencement of the rules made under this Act, shall be deemed to have been appointed under sub-section (1) of sections 13 and 14, notwithstanding any rule prescribing different qualifications.

(2) The rules made by a State Government under the Standards of Weights and Measures (Enforcement) Act, 1985 which are in force immediately before the commencement of this Act shall remain in force until the State Government, makes rules in that behalf. 54 of 1985.

Repeal of the Standards of Weights and Measures Act, 1976 and Standards of Weights and Measures (Enforcement) Act, 1985.

57. (1) The Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, is hereby repealed. 60 of 1976. 54 of 1985.

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897, with respect to repeals, any notification, rule or order made under the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, shall, if in force, at the commencement of this Act, continue to be in force and have effect as if it was made under the corresponding provision of this Act. 10 of 1897. 60 of 1976. 54 of 1985.

(3) Notwithstanding such repeal, any appointment, notification, rule, order, registration, licence, certificate, notice, decision, approval, authorisation or consent made, issued or given under such law shall, if in force at the commencement of this Act, continue to be in force and have effect as if it were made, issued or given under the corresponding provisions of this Act.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 30th November, 2011.

No. RPB/16-2011/Act-16-10/E:- The following Act of Parliament is republished for general information :-

Government of India

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th May, 2010. Vaisakha 28, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 18th May, 2010, is hereby published for general information :-

THE TAMIL NADU LEGISLATIVE COUNCIL ACT, 2010

An

Act

(Act No. 16 of 2010)

[18th May, 2010]

to provide for the creation of legislative council for the state of Tamil Nadu and for matters supplemental, incidental and consequential thereto..

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Tamil Nadu Legislative Council Act, 2010.

Short title

43 of 1950.

2. In this Act, unless the context otherwise requires, each of the words and expressions used herein and not defined but defined in the Representation of the People Act, 1950, shall have the same meaning as in that Act.

Definition.

3. (1) As from such date as the President may, by order appoint, there shall be a Legislative Council for the State of Tamil Nadu; and as from that date, in sub-clause (a) of clause (1) of article 168, after the word "Karnataka", the words "Tamil Nadu", shall be inserted.

Creation of Legislative Council for Tamil Nadu.

(2) In the said Council, there shall be 78 seats of which-

(a) the numbers to be filled by persons elected by the electorates referred to in sub-clause (a), (b) and (c) of clause (3) of article 171 shall be 26, 7 and 7 respectively;

(b) the number to be filled by persons elected by the members of the Legislative Assembly of Tamil Nadu in accordance with the provisions of sub-clause (d) of the said clause shall be 26; and

(c) the number to be filled by persons nominated by the Governor of Tamil Nadu in accordance with the provisions of sub-clause (e) of that clause shall be 12.

(3) As soon as may be after the commencement of this Act, the President, after consultation with the Election Commission, shall, by order, determine,—

(a) the constituencies into which the State of Tamil Nadu shall be divided for the purpose of elections to the said Council under each of the sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the extent of each constituency; and

(c) the number of seats to be allotted to each constituency.

(4) As soon as may be after such determination, steps shall be taken to constitute the said Council in accordance with the provisions of this Act, the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

43 of 1950.
43 of 1951.

Amendment of
Third Schedule
and Fourth
Schedule to Act
43 of 1950.

4. In the Representation of the People Act, 1950,—

(a) in the Third Schedule, after entry No. 6 relating to Karnataka, the following entry shall be inserted, namely:—

“7. Tamil Nadu 78 26 7 7 26 12”;

(b) in the Fourth Schedule, after the heading “KARNATAKA” and the entries thereunder, the following heading and entries shall be inserted, namely:—

“TAMIL NADU

1. Municipalities, as referred to in article 243Q of the Constitution.
2. Panchayat Union Councils.
3. Cantonment Boards.
4. District Panchayats referred to in the Tamil Nadu Panchayat Act, 1994.”

Tamil Nadu Act
21 of 1994.

Amendment of
section 15A of
Act 43 of
1951.

5. In section 15A of the Representation of the People Act, 1951, after the words and figures “under the Andhra Pradesh Legislative Council Act, 2005”, the words and figures “and constituting the Legislative Council of the State of Tamil Nadu under the Tamil Nadu Legislative Council Act, 2010” shall be inserted.

1 of 2006.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.



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LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 30th November, 2011.

No. RPB/17-2011/Act-17-10/E:- The following Act of Parliament is republished for general information :-

Government of India

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th May, 2010, Vaisakha 28, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 18th May, 2010, is hereby published for general information :-

THE PLANTATIONS LABOUR (AMENDMENT) ACT, 2010

An

Act

(Act No. 17 of 2010)

[18th May, 2010]

further to amend the Plantations Labour Act, 1951.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Plantations Labour (Amendment) Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall, in relation to any State, be constructed as a reference to the coming into force of that provision in that State.

Short title and
commencement.

69 of 1951. 2. In the section 3 of the Plantations Labour Act, 1951 (hereinafter referred to as the principal Act),

Amendment
of section 2.

(a) in clause (c), the following *Explanation* shall be inserted, namely:-

Explanation.- For the purposes of this clause, "the person who has the ultimate control over the affairs of the plantation" means in the case of a plantation owned or controlled by-

(i) a company, firm or other association of individuals, whether incorporated or not, every director, partner or individual;

(ii) the Central Government or State Government or any local authority, the person or persons appointed to manage the affairs of the plantation; and

(iii) a lessee, the lessee;';

(b) in clause (ee), for the words "and includes, where the worker is a male, his parents dependent upon him", the words "and includes parents and widow sister, dependent upon him or her" shall be substituted;

(c) in clause (k),—

(i) in the opening portion, after the words "manual or clerical", the words "and includes a person employed on contract for more than sixty days in a year" shall be inserted;

(ii) in sub-clause (ii), for the words "rupees seven hundred and fifty", the words "rupees ten thousand" shall be substituted;

(iii) in sub-clause (iii), for the words "managerial capacity, notwithstanding that his monthly wages do not exceed rupees seven hundred and fifty", the words "managerial or administrative capacity, notwithstanding that his monthly wages do not exceed rupees ten thousand" shall be substituted.

Amendment of section 7. 3. In section 7 of the principal Act, in sub-section (2), in clause (b), for the words "and children are, or are to be", the word "are" shall be substituted.

Amendment of section 10. 4. In section 10 of the principal Act, in sub-section (2), for the words "chief inspector", the words "State Government upon a request by the chief inspector" shall be substituted.

Insertion of new Chapter IVA. 5. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER IVA

PROVISIONS AS TO SAFETY

Safety.

18A. (1) In every plantation, effective arrangements shall be made by the employer to provide for the safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances.

(2) The State Government may make rules for prohibiting or, restricting employment of women or adolescents in using or handling hazardous chemicals.

(3) The employer shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(4) Every employer shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides chemicals and toxic substances and such other matters as may be prescribed by the State Government.

(5) Every worker who is exposed to insecticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed, by the State Government.

(6) Every employer shall maintain health record of every worker who is exposed to insecticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

(7) Every employer shall provide—

- (a) washing, bathing and clock room facilities; and
- (b) protective clothing and equipment,

to every worker engaged in handling insecticides, chemicals or toxic substances in such manner as may be prescribed by the State Government.

(8) Every employer shall display in the plantation a list of permissible concentrations of insecticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of such insecticides, chemicals and toxic substances.

(9) Every employer shall exhibit such precautionary notices as may be prescribed by the State Government indicating the hazards of insecticides, chemicals and toxic substances.

18B. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the restriction on employment of women and adolescents for handling hazardous chemicals under sub-section (2) of section 18A;

(b) the qualifications of supervisor appointed under sub-section (3) of section 18A;

(c) the matters for training of workers under sub-section (4) of section 18A;

(d) the medical examination of workers under sub-section (5) of section 18A;

(e) the facilities and equipment to be provided to the workers engaged in handling insecticides, chemicals and toxic substances under sub-section (7) of section 18A;

(f) the precautionary notices to be exhibited under sub-section (9) of section 18A.”.

6. In section 19 of the principal Act, in sub-section (1), the words “or child” shall be omitted.

Amendment of section 19.

7. After section 23 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 24.

“24. No child shall be employed to work in any plantation.”.

Prohibition of employment of Children.

8. In section 25 of the principal Act,—

Amendment of section 25.

(a) the words “or child” shall be omitted;

(b) in the marginal heading, the words “and children” shall be omitted.

9. In section 26 of the principal Act,—

Amendment of section 26.

(a) in the opening portion, the words “child and no” shall be omitted;

(b) in clause (b), the words “child or” shall be omitted.

10. In section 27 of the principal Act, in sub-section (1), the words “either as a child or” shall be omitted.

Amendment of section 27.

Insertion of
new section
32C.

11. After section 32B of the principal Act, the following section shall be inserted, namely:—

Compensation.

“32C. The employer shall give compensation to a worker in plantation in case of accident and the memorandum relating to such compensation shall be got registered by the employer with the Commissioner in accordance with the provisions of the Workmen’s Compensation Act, 1923.”.

8 of 1923.

Amendment
of sections
33, 35 and
36.

12. In sections 33, 35 and 36 of the principal Act, for the words “three months, or with fine which may extend to five hundred rupees, or with both”, wherever they occur, the words “six months, or with fine which may extend to ten thousand rupees, or with both” shall be substituted.

Amendment
of section 34.

13. In section 34 of the principal Act, for the words “one month, or with fine which may extend to fifty rupees, or with both,” the words “two months, or with fine which may extend to one thousand rupees, or with both” shall be substituted.

Amendment
of section 37.

14. In section 37 of the principal Act, for the words “six months, or with fine which may extend to one thousand rupees, or with both”, the words “one year, or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both” shall be substituted.

Substitution
of new
sections for
section 39.

15. For section 39 of the principal Act, the following sections shall be substituted, namely:—

Cognizance
of offences.

“39. No court shall take cognizance of any offence under this Act except on a complaint made by any worker or an office bearer of a trade union of which such worker is a member or an inspector and no court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

Protection of
action taken
in good faith.

39A. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.”.

Amendment
of section 43.

16. In section 43 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made by the State Government under this Act shall, as soon as may be after it is made, be laid before the State Legislature.”.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,

Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 30th November, 2011.

No. RPB/14-2011/Act-14-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 10th May, 2010. Vaisakha 20, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 8th May, 2010, is hereby published for general information :-

THE FINANCE Act, 2010.

An

(Act No. 14 of 2010)

Act

[8th May, 2010]

to give effect to the financial proposals of the Central Government for the financial year 2010-2011.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 2010.

(2) Save as otherwise provided in this Act, sections 2 to 56 shall be deemed to have come into force on the 1st day of April, 2010.

Short title and commencement.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2010, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh sixty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh sixty thousand rupees of the total income

8. In section 32 of the Income-tax Act, in sub-section (1), in the fifth proviso, for the words, brackets and figures "clause (xiii) and clause (xiv)", the words, brackets, figures and letter "clause (xiii), clause (xiiib) and clause (xiv)" shall be substituted with effect from the 1st day of April, 2011. Amendment of section 32.

9. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2011,— Amendment of section 35.

(i) in sub-section (1),—

(a) for the words "scientific research association", wherever they occur, the words "research association" shall be substituted;

(b) in clause (ii), for the words "one and one-fourth", the words "one and three-fourth" shall be substituted;

(c) in clause (iii),—

(A) for the words "any sum paid to a university", the words "any sum paid to a research association which has as its object the undertaking of research in social science or statistical research or to a university" shall be substituted;

(B) in the proviso, for the words "such university", at both the places where they occur, the words "such association, university" shall be substituted;

(ii) in sub-section (2AA), in clause (a), for the words "one and one-fourth", the words "one and three-fourth" shall be substituted;

(iii) in sub-section (2AB), in clause (1), for the words "one and one-half", the word "two" shall be substituted.

10. In section 35AD of the Income-tax Act,—

Amendment of section 35AD.

(a) in sub-section (2), in clause (iii), in sub-clause (c), for the words "one-third of its total pipeline capacity", the words, brackets and figures "such proportion of its total pipeline capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006" shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2011, namely:—

'(3) Where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of Chapter VI-A under the heading "*C.—Deductions in respect of certain incomes*" in relation to such specified business for the same or any other assessment year.'

(c) in sub-section (5), with effect from the 1st day of April, 2011,—

(i) in clause (a), the word "and", occurring at the end, shall be omitted;

(ii) after clause (a), the following clauses shall be inserted, namely:—

"(aa) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hotel of two-star or above category as classified by the Central Government;

(ab) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hospital with at least one hundred beds for patients;

(ac) on or after the 1st day of April, 2010, where the specified business is in the nature of developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and”;

(iii) in clause (b), for the word, brackets and letter “clause (a)”, the words, brackets and letters “clause (a), clause ~~(aa)~~, clause ~~(ab)~~ and clause (ac)” shall be substituted;

(d) in sub-section (8) in clause (c), after sub-clause (iii), the following sub-clauses shall be inserted with effect from the 1st day of April, 2011, namely:—

“(iv) building and operating, anywhere in India, a new hotel of two-star or above category as classified by the Central Government;

(v) building and operating, anywhere in India, a new hospital with at least one hundred beds for patients;

(vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed.”

Amendment
of section
35DDA.

11. In section 35DDA of the Income-tax Act, with effect from the 1st day of April, 2011,—

(a) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where there has been reorganisation of business, whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, the provisions of this section shall, as far as may be, apply to the successor limited liability partnership, as they would have applied to the said company, if reorganisation of business had not taken place.”;

(b) in sub-section (5), for the words, brackets and figures “sub-section (3) and in the case of a firm or proprietary concern referred to in sub-section (4)”, the words, brackets, figures and letter “sub-section (3), in the case of a firm or proprietary concern referred to in sub-section (4) and in the case of a company referred to in sub-section (4A)” shall be substituted.

Amendment
of section 40.

12. In section 40 of the Income-tax Act, in clause (a), in sub-clause (ia),—

(a) for the portion beginning with the words “has not been paid,—” and ending with the words “the last day of the previous year”, the words, brackets and figures “has not been paid on or before the due date specified in sub-section (1) of section 139” shall be substituted;

(b) for the proviso, the following proviso shall be substituted, namely:—

“Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.”

13. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2011,—

Amendment
of section 43.

(a) in clause (1), in *Explanation* 13, in clause (b), in sub-clause (iii), for the brackets, figures and word “(xiii) and (xiv)”, the brackets, figures, letter and word “(xiii), (xiiib) and (xiv)” shall be substituted;

(b) in clause (6), after *Explanation* 2B, the following *Explanation* shall be inserted, namely:—

“*Explanation* 2C.—Where in any previous year, any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions specified in the proviso to clause (xiiib) of section 47 are satisfied, then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the limited liability partnership shall be the written down value of the block of assets as in the case of the said company on the date of conversion of the company into the limited liability partnership.”

14. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2011,—

Amendment of
section 44AB.

(a) in clause (a), for the words “forty lakh rupees”, the words “sixty lakh rupees” shall be substituted;

(b) in clause (b), for the words “ten lakh rupees”, the words “fifteen lakh rupees” shall be substituted.

33 of 2009.

15. In section 44AD of the Income-tax Act [as amended by section 20 of the Finance (No. 2) Act, 2009], in the *Explanation*, in clause (b), in sub-clause (ii), for the words “forty lakh rupees”, the words “sixty lakh rupees” shall be substituted with effect from the 1st day of April, 2011.

Amendment of
section 44AD.

16. In section 44BB of the Income-tax Act, in the proviso to sub-section (1), after the words, figures and letter “section 44D or”, the words, figures and letters “section 44DA or” shall be inserted with effect from the 1st day of April, 2011.

Amendment of
section 44BB.

17. In section 44DA of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2011, namely:—

Amendment of
section 44DA.

“Provided further that the provisions of section 44BB shall not apply in respect of the income referred to in this section.”

18. In section 47 of the Income-tax Act, after clause (xiiia), the following shall be inserted with effect from the 1st day of April, 2011, namely:—

Amendment of
section 47.

“(xiiib) any transfer of a capital asset or intangible asset by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership or any transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership in accordance with the provisions of section 56 or section 57 of the Limited Liability Partnership Act, 2008:

6 of 2009

Provided that—

(a) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;

(b) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;

(c) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;

(d) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent. at any time during the period of five years from the date of conversion;

(e) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; and

(f) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.

Explanation.—For the purposes of this clause, the expressions “private company” and “unlisted public company” shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008;.

6 of 2009.

Amendment
of section
47A.

19. In section 47A of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of April, 2011, namely:—

“(4) Where any of the conditions laid down in the proviso to clause (xiib) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 45 by virtue of conditions laid down in the said proviso shall be deemed to be the profits and gains chargeable to tax of the successor limited liability partnership or the shareholder of the predecessor company, as the case may be, for the previous year in which the requirements of the said proviso are not complied with.”

Amendment
of section 49.

20. In section 49 of the Income-tax Act,—

(a) in sub-section (1), in clause (iii), in sub-clause (e), for the words, brackets, figures and letters “clause (viib) of section 47”, the words, brackets, figures and letters “clause (viib) or clause (xiib) of section 47” shall be substituted with effect from the 1st day of April, 2011;

(b) after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 2011, namely:—

“(2AAA) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008, became the property of the assessee on conversion as referred to in clause (xiib) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.”;

6 of 2009.

(c) in sub-section (4), after the word, brackets and figures “clause (vii)”, at both the places where they occur, the words, brackets, figures and letter “or clause (viiia)” shall be inserted with effect from the 1st day of June, 2010.

Amendment
of section 56.

21. In section 56 of the Income-tax Act, in sub-section (2),—

(a) in clause (vii),—

(i) for sub-clause (b), the following sub-clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2009, namely:—

“(b) any immovable property, without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value

(ii) in the *Explanation*, in clause (d),—

(A) in the opening portion, for the word “means—”, the words “means the following capital asset of the assessee, namely:—” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2009;

(B) in sub-clause (vii), the word “or” shall be omitted with effect from the 1st day of June, 2010;

(C) in sub-clause (viii), the word “or” shall be inserted at the end with effect from the 1st day of June, 2010;

(D) after sub-clause (viii), the following sub-clause shall be inserted with effect from the 1st day of June, 2010, namely:—

“(ix) bullion;”;

(b) after clause (vii), the following shall be inserted with effect from the 1st day of June, 2010, namely:—

“(viiia) where a firm or a company not being a company in which the public are substantially interested, receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010, any property, being shares of a company not being a company in which the public are substantially interested,—

(i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any such property received by way of a transaction not regarded as transfer under clause (via) or clause (vic) or clause (vicb) or clause (vid) or clause (vii) of section 47.

Explanation.—For the purposes of this clause, “fair market value” of a property, being shares of a company not being a company in which the public are substantially interested, shall have the meaning assigned to it in the *Explanation* to clause (vii);’.

22. In section 72A of the Income-tax Act, with effect from the 1st day of April, 2011,—

(a) after sub-section (6), the following shall be inserted, namely:—

“(6A) Where there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the purpose of the previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly:

Amendment
of section
72A.

Provided that if any of the conditions laid down in the proviso to clause (xiiib) of section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor limited liability partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which such conditions are not complied with.”;

(b) in sub-section (7), for clauses (a) and (b), the following clauses shall, respectively, be substituted, namely:—

‘(a) “accumulated loss” means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business or conversion or amalgamation or demerger had not taken place;

(b) “unabsorbed depreciation” means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or conversion or amalgamation or demerger had not taken place;’.

Amendment
of section
80A.

23. In section 80A of the Income-tax Act, after sub-section (6) and the *Explanation* thereto, the following sub-section shall be inserted with effect from the 1st day of April, 2011, namely:—

‘(7) Where a deduction under any provision of this Chapter under the heading “C.—Deductions in respect of certain incomes” is claimed and allowed in respect of profits of any of the specified business referred to in clause (c) of sub-section (8) of section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.’.

Insertion of
new section
80CCF.

24. After section 80CCE of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2011, namely:—

Deduction in
respect of
subscription
to long-term
infrastructure
bonds.

“80CCF. In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, the whole of the amount, to the extent such amount does not exceed twenty thousand rupees, paid or deposited, during the previous year relevant to the assessment year beginning on the 1st day of April, 2011, as subscription to long-term infrastructure bonds as may, for the purposes of this section, be notified by the Central Government.”.

Amendment
of section
80D.

25. In section 80D of the Income-tax Act, in sub-section (2), in clause (a), after the words “his family”, the words “or any contribution made to the Central Government Health Scheme” shall be inserted with effect from the 1st day of April, 2011.

Amendment
of section
80GGA.

26. In section 80GGA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2011,—

(a) in clause (a), for the words “scientific research association”, the words “research association” shall be substituted;

(b) in clause (aa),—

(A) for the words “to a University”, the words “to a research association which has as its object the undertaking of research in social science or statistical research or to a University” shall be substituted;

(B) in the proviso, for the words “such University”, the words “such association, University” shall be substituted;

(C) in the *Explanation*, for the words “scientific research association”, the words “research association” shall be substituted.

27. In section 80-IB of the Income-tax Act, in sub-section (10),—

Amendment
of section
80-IB.

(i) in clause (a),—

(a) in sub-clause (ii), after the words, figures and letters “the 1st day of April, 2004”, the words, figures and letters “but not later than the 31st day of March, 2005” shall be inserted;

(b) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) in a case where a housing project has been approved by the local authority on or after the 1st day of April, 2005, within five years from the end of the financial year in which the housing project is approved by the local authority.”;

(ii) in clause (a),—

(a) for the words “five per cent.”, the words “three per cent.” shall be substituted;

(b) for the words “two thousand square feet, whichever is less”, the words “five thousand square feet, whichever is higher” shall be substituted.

28. In section 80-ID of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2011,—

Amendment
of section
80-ID.

(a) in clause (i), for the words, figures and letters “the 31st day of March, 2010”, the words, figures and letters “the 31st day of July, 2010” shall be substituted;

(b) in clause (ii), for the words, figures and letters “the 31st day of March, 2010”, the words, figures and letters “the 31st day of July, 2010” shall be substituted.

29. In section 115JAA of the Income-tax Act, after sub-section (6), the following shall be inserted with effect from the 1st day of April, 2011, namely:—

Amendment
of section
115JAA.

“(7) In case of conversion of a private company or unlisted public company into a limited liability partnership under the Limited Liability Partnership Act, 2008, the provisions of this section shall not apply to the successor limited liability partnership.

Explanation.—For the purposes of this section, the expressions “private company” and “unlisted public company” shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008.”

30. In section 115JB of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2011,—

Amendment
of section
115JB.

(a) for the words, figures and letters “the 1st day of April, 2010”, the words, figures and letters “the 1st day of April, 2011” shall be substituted;

(b) for the words “fifteen per cent.” at both the places where they occur, the words “eighteen per cent.” shall be substituted.

Amendment
of section
115WE.

31. In section 115WE of the Income-tax Act, in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2010", the words, figures and letters "after the 31st day of March, 2011" shall be substituted.

Amendment
of section
139.

32. In section 139 of the Income-tax Act, in sub-section (4C), for the words "scientific research association" at both the places where they occur, the words "research association" shall be substituted with effect from the 1st day of April, 2011.

Amendment
of section
142A.

33. In section 142A of the Income-tax Act, in sub-section (1), for the words, figures and letter "section 69B is required to be made", the words, figures, letter and brackets "section 69B or fair market value of any property referred to in sub-section (2) of section 56 is required to be made" shall be substituted with effect from the 1st day of July, 2010.

Amendment
of section
143.

34. In section 143 of the Income-tax Act,—

(a) in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2010", the words, figures and letters "after the 31st day of March, 2011" shall be substituted;

(b) in sub-section (3), in the first proviso, for the words "scientific research association", wherever they occur, the words "research association" shall be substituted with effect from the 1st day of April, 2011.

Amendment
of section
194B.

35. In section 194B of the Income-tax Act, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment
of section
194BB.

36. In section 194BB of the Income-tax Act, for the words "two thousand five hundred rupees", the words "five thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment
of section
194C.

37. In section 194C of the Income-tax Act, in sub-section (5), with effect from the 1st day of July, 2010,—

(a) for the words "twenty thousand rupees", the words "thirty thousand rupees" shall be substituted;

(b) in the proviso, for the words "fifty thousand rupees", the words "seventy-five thousand rupees" shall be substituted.

Amendment
of section
194D.

38. In section 194D of the Income-tax Act, in the second proviso, for the words "five thousand rupees", the words "twenty thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment
of section
194H.

39. In section 194H of the Income-tax Act, in the first proviso, for the words "two thousand five hundred rupees", the words "five thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment
of section
194-I.

40. In section 194-I of the Income-tax Act, in the first proviso, for the words "one hundred and twenty thousand rupees", the words "one hundred eighty thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment
of section
194J.

41. In section 194J of the Income-tax Act, in the first proviso to sub-section (1), in clause (B), for the words "twenty thousand rupees", wherever they occur, the words "thirty thousand rupees" shall be substituted with effect from the 1st day of July, 2010.

Amendment
of section
201.

42. In section 201 of the Income-tax Act, for sub-section (1A), the following sub-section shall be substituted with effect from the 1st day of July, 2010, namely:—

"(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

(b) in clause (iv), for the words, brackets and figures "or clause (iii) of the proviso", the words, brackets and figures "of the proviso or clause (iii) of the Explanation" shall be substituted.

54. In section 22D of the Wealth-tax Act, in sub-section (4A),—

Amendment
of section
22D.

(a) in clause (ii), after the words, figures and letters "the 1st day of June, 2007", the words, figures and letters "but before the 1st day of June, 2010" shall be inserted;

(b) after clause (ii), the following clause shall be inserted with effect from the 1st day of June, 2010, namely:—

"(iii) in respect of an application made on or after the 1st day of June, 2010, within eighteen months from the end of the month in which the application was made."

55. In section 27 of the Wealth-tax Act, after sub-section (3A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1981, namely:—

Amendment
of section 27.

"(3B) The High Court may admit an application after the expiry of the period of ninety days referred to in sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period."

56. In section 27A of the Wealth-tax Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

Amendment
of section 27A.

"(1A) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in sub-section (1), if it is satisfied that there was sufficient cause for not filing the same within that period."

CHAPTER IV

INDIRECT TAXES

Customs

52 of 1962.

57. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 127B, in sub-section (1), for the words "but excluding the goods not included in the entry made under this Act", the words "or otherwise" shall be substituted.

Amendment
of section
127B.

58. In section 127C of the Customs Act, in sub-section (6), the following proviso shall be inserted, namely:—

Amendment
of section
127C.

"Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months."

59. In section 127L of the Customs Act,—

Amendment
of section
127L.

(a) in sub-section (1),—

(i) the words, figures and letters "before the 1st day of June, 2007" shall be omitted;

(ii) in clause (i), after the words, brackets, figures and letter "sub-section (7) of section 127C", the words, figures, brackets and letter "as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C" shall be inserted;

22 of 2007.

(iii) in clause (ii), after the word, brackets and figure "sub-section (7)", the words, figures, brackets and letter "as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C" shall be inserted;

22 of 2007.

(b) sub-section (2) shall be omitted.

Amendment
of
notifications
issued under
sub-section (1)
of section 25
of Customs
Act.

60. (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 118(E), dated the 1st March, 2002 and number G.S.R. 92(E), dated the 1st March, 2006, issued under sub-section (1) of section 25 of the Customs Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Second Schedule, on and from the corresponding date specified in column (4) of that Schedule, against each of the notifications specified in column (2) of that Schedule.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in said sub-section (1) with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 25 of the Customs Act, retrospectively, at all material times.

(3) No suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made in said notifications had been in force at all material times.

(4) Recovery shall be made of the amount which has not been paid but which would have been paid as if the amendments made in the manner specified in said sub-section (1) had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in this section had not been amended retrospectively.

Customs tariff

Amendment
of section 3.

61. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in section 3, in sub-section (2), for the first proviso, the following proviso shall be substituted, namely:—

“ Provided that in case of an article imported into India,—

(a) in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs, is—

(i) the goods specified by notification in the Official Gazette under sub-section (1) of section 4A of the Central Excise Act, 1944, the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section (2) of section 4A of that Act; or

(ii) the goods specified by notification in the Official Gazette under section 3, read with clause (1) of *Explanation III* of the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under clause (2) of the said *Explanation*.

Explanation.—Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.”

62. The First Schedule to the Customs Tariff Act shall be amended in the manner specified in the Third Schedule.

Amendment of First Schedule.

63. In the Second Schedule to the Customs Tariff Act, against heading No. 16, in column (3), for the entry "Rs. 2500 per tonne", the entry "Rs. 10000 per tonne" shall be substituted.

Amendment of Second Schedule.

Excise

1 of 1944.

64. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 11A, in sub-section (2B), after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Amendment of section 11A.

"*Explanation 3*.— For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of duty under this sub-section and interest thereon."

65. In section 32E of the Central Excise Act, in sub-section (1), for the words "but excluding the goods in respect of which no proper record has been maintained by the assessee in his daily stock register", the words "or otherwise" shall be substituted.

Amendment of section 32E.

66. In section 32F of the Central Excise Act, in sub-section (6), the following proviso shall be inserted, namely:—

Amendment of section 32F.

"Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months."

67. In section 32-O of the Central Excise Act,—

Amendment of section 32-O.

(a) in sub-section (1),—

(i) the words, figures and letters "before the 1st day of June, 2007" shall be omitted;

22 of 2007.

(ii) in clause (i), after the words, brackets, figures and letter "sub-section (7) of section 32F", the words, figures, brackets and letter "as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F," shall be inserted;

22 of 2007.

(iii) in clause (ii), after the word, brackets and figure "sub-section (7)", the words, figures, brackets and letter "as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F," shall be inserted;

(b) sub-section (2) shall be omitted.

68. In section 37 of the Central Excise Act, in sub-section (2), after clause (xiii), the following clause shall be inserted, namely:—

Amendment of section 37.

"(xiiiia) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on manufacturer or exporter or suspension of registration of dealer, for dealing with evasion of duty or misuse of CENVAT credit;"

69. (1) The Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Fourth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rule specified in column (2) of that Schedule.

Amendment of Central Excise Rules, 1944 by insertion of new rule 57CCC.

(2) Where a person opts to pay the amount in accordance with the provisions of the Central Excise Rules, 1944 as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost

Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of the final products, which are exempted from the whole of the duty of excise leviable thereon or chargeable to *nil* rate of duty, within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of September, 1996 and ending with the 31st day of March, 2000, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the Central Excise Rules, 1944, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Amendment
of rule 57AD
of Central
Excise Rules,
1944.

70. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 57D, as substituted by rule 2 of the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 203(E), dated the 1st March, 2000, and subsequently substituted as rule 57AD by rule 5 of the Central Excise [Second Amendment (Amendment)] Rules, 2000, published in the Gazette of India *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 298 (E), dated the 31st March, 2000, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Fifth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule against the rules specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of the final products, which are exempted from the whole of the duty of excise leviable thereon or chargeable to *nil* rate of duty, within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of

(5) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

74. In the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 156(E), dated the 14th day of March, 2006, issued under rule 5 of the CENVAT Credit Rules, 2004, with effect from the 14th day of March, 2006,—

Amendment of notification issued under rule 5 of CENVAT Credit Rules, 2004.

(A) in the opening portion,—

(i) in clause (a), for the words “used in”, the words “used in or in relation to” shall be substituted and shall be deemed to have been substituted;

(ii) in clause (b), for the words “used in”, the words “used for” shall be substituted and shall be deemed to have been substituted;

(B) in the Appendix, in condition 5, the portion beginning with the letters and words “i.e. Maximum refund” and ending with the letters and figures “i.e. Rs. 50” shall be omitted and shall be deemed to have been omitted.

Central Excise Tariff

75. The First Schedule to the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Ninth Schedule.

Amendment of First Schedule to Act 5 of 1986.

CHAPTER V

SERVICE TAX

76. In the Finance Act, 1994,—

Amendment of Act 32 of 1994.

(A) in section 65, save as otherwise provided, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) in clause (19), in sub-clause (ii), the *Explanation* shall be omitted;

(2) after clause (19a), the following clause shall be inserted, namely:—

“(19b) “business entity” includes an association of persons, body of individuals, company or firm but does not include an individual;”;

(3) in clause (25b), for the words “commercial or industrial construction service”, the words “commercial or industrial construction” shall be substituted;

(4) for clause (77c), the following clause shall be substituted, namely:—

“(77c) “passenger” means any person boarding an aircraft in India for performing domestic journey or international journey;”;

(5) for clause (82), the following clause shall be substituted, namely:—

“(82) “port service” means any service rendered within a port or other port, in any manner;”;

(6) in clause (105),—

(a) for sub-clause (zn), the following sub-clause shall be substituted, namely:—

“(zn) to any person, by any other person, in relation to port services in a port, in any manner:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port;”;

(b) in sub-clause (zzc), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2003, namely:—

*‘Explanation.—*For the removal of doubts, it is hereby declared that the expression “commercial training or coaching centre” occurring in this sub-clause and in clauses (26), (27) and (90a) shall include any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and the expression “commercial training or coaching” shall be construed accordingly;”

(c) for sub-clauses (zzl) and (zzm), the following sub-clauses shall be substituted, namely:—

“(zzl) to any person, by any other person, in relation to port services in other port, in any manner:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within other port;

(zzm) to any person, by airports authority or by any other person, in any airport or a civil enclave:

Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the airport or civil enclave;”;

(d) in sub-clause (zzq),—

(i) the word “service” shall be omitted;

(ii) the following *Explanation* shall be inserted, namely:—

*“Explanation.—*For the purposes of this sub-clause, the construction of a new building which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or the person authorised by the builder before grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer;”

(e) in sub-clause (zzzh), the following *Explanation* shall be inserted, namely:—

*“Explanation.—*For the purposes of this sub-clause, construction of a complex which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or a person authorised by the builder before the grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer;”

(f) for sub-clauses (zzzn) and (zzzo), the following sub-clauses shall be substituted, namely:—

“(zzzn) to any person, by any other person receiving sponsorship, in relation to such sponsorship, in any manner;

(zzzo) to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for domestic journey or international journey;”;

(g) in sub-clause (zzzr), the following *Explanation* shall be inserted, namely:—

‘*Explanation*.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “auction by the Government” means the Government property being auctioned by any person acting as auctioneer;”;

(h) in sub-clause (zzzz),—

(i) for the portion beginning with the words “to any person” and ending with the words “business or commerce”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2007, namely:—

“to any person, by any other person, by renting of immovable property or any other service in relation to such renting, for use in the course of or for furtherance of, business or commerce.”;

(ii) in *Explanation 1*, after item (iv), the following item shall be inserted, namely:—

“(v) vacant land given on lease or licence for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce.”;

(i) in sub-clause (zzzze), the words “for use in the course, or furtherance, of business or commerce,” shall be omitted;

(j) in sub-clause (zzzzf), in the *Explanation*, for clauses (ii) and (iii), the following clause shall be substituted, namely:—

“(ii) the gross amount charged by the insurer from the policy holder for the said service provided or to be provided shall be equal to the maximum amount fixed by the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999, as fund management charges for unit linked insurance plan or the actual amount charged for the said purpose by the insurer from the policy holder, whichever is higher;”;

(k) *Explanation* to sub-clause (zzzzm) shall be omitted;

(l) after sub-clause (zzzzm), the following sub-clauses shall be inserted, namely:—

“(zzzzn) to any person, by any other person, for promotion, marketing, organising or in any other manner assisting in organising games of chance, including lottery, Bingo or Lotto in whatever form or by whatever name called, whether or not conducted through internet or other electronic networks;

(zzzzo) by any hospital, nursing home or multi-speciality clinic,—

(i) to an employee of any business entity, in relation to health check-up or preventive care, where the payment for such check-up or preventive care is made by such business

entity directly to such hospital, nursing home or multi-speciality clinic; or

(ii) to a person covered by health insurance scheme, for any health check-up or treatment, where the payment for such health check-up or treatment is made by the insurance company directly to such hospital, nursing home or multi-speciality clinic;

(zzzzp) to any business entity, by any other person, in relation to storing, keeping or maintaining of medical records of employees of a business entity;

(zzzzq) to any person, by any other person, through a business entity or otherwise, under a contract for promotion or marketing of a brand of goods, service, event or endorsement of name, including a trade name, logo or house mark of a business entity by appearing in advertisement and promotional event or carrying out any promotional activity for such goods, service or event.

Explanation.—For the purposes of this sub-clause, “brand” includes symbol, monogram, label, signature or invented words which indicate connection with the said goods, service, event or business entity;

(zzzzr) to any person, by any other person, by granting the right or by permitting commercial use or exploitation of any event including an event relating to art, entertainment, business, sports or marriage organised by such other person;

(zzzzs) to any person, by an electricity exchange, by whatever name called, approved by the Central Electricity Regulatory Commission constituted under section 76 of the Electricity Act, 2003, in relation to trading, processing, clearing or settlement of spot contracts, term ahead contracts, seasonal contracts, derivatives or any other electricity related contract; 36 of 2003.

(zzzzt) to any person, by any other person, for—

(a) transferring temporarily; or

(b) permitting the use or enjoyment of,

any copyright defined in the Copyright Act, 1957, except the rights covered under sub-clause (a) of clause (1) of section 13 of the said Act; 14 of 1957.

(zzzzu) to a buyer, by a builder of a residential complex, or a commercial complex, or any other person authorised by such builder, for providing preferential location or development of such complex but does not include services covered under sub-clauses (zzg), (zzq), (zzzh) and in relation to parking place.

Explanation.—For the purposes of this sub-clause, “preferential location” means any location having extra advantage which attracts extra payment over and above the basic sale price;’

(B) in section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the word, brackets and letters “and (zzzzm)” the brackets, letters and word “, (zzzzm), (zzzzn), (zzzzo), (zzzzp), (zzzzq), (zzzzr), (zzzzs), (zzzzt) and (zzzzu)” shall be substituted;

(C) in section 73, in sub-section (3), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

transfers or consignments of goods, in so far as they involve a dispute of inter-State nature.”

81. In section 22 of the Central Sales Tax Act,—

Amendment
of section 22.

(a) for the word “pre-deposit”, wherever it occurs, the word “deposit” shall be substituted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely,—

“(1B) The Authority may issue direction for refund of tax collected by a State which has been held by the Authority to be not due to that State, or alternatively, direct that State to transfer the refundable amount to the State to which central sales tax is due on the same transaction:

Provided that the amount of tax directed to be refunded by a State shall not exceed the amount of central sales tax payable by the appellant on the same transaction.”

82. In section 25 of the Central Sales Tax Act, the proviso to sub-section (2) shall be omitted.

Amendment of
section 25.

CHAPTER VII

CLEAN ENERGY CESS

83. (1) This Chapter extends to the whole of India.

Clean Energy
Cess.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Clean Energy Cess, as duty of excise, on goods specified in the Tenth Schedule, being goods produced in India, at the rates set forth in the said Schedule for the purposes of financing and promoting clean energy initiatives, funding research in the area of clean energy or for any other purpose relating thereto.

(4) The proceeds of the cess levied under sub-section (3) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the cess for the purposes specified in sub-section (3), as it may consider necessary.

(5) The cess leviable under sub-section (3) shall be in addition to any cess or duty leviable on the goods specified in the Tenth Schedule under any other law for the time being in force.

(6) The cess leviable under sub-section (3) shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States and the manner of assessment, collection, utilisation and any other matter relating to cess shall be such as may be prescribed by rules.

(7) The Central Government may, by notification in the Official Gazette, declare that any of the provisions of the Central Excise Act, 1944, relating to levy of and exemption from duty of excise, refund, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary, be applicable in respect of cess levied under sub-section (3).

1 of 1944.

84. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

Power of
Central
Government to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for —

(a) the manner of assessment, collection and utilisation of the cess under sub-section (6) of section 83;

(b) any other matter relating to the cess under sub-section (6) of section 83.

(3) Every rule made and every notification issued under this Chapter shall be laid as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

CHAPTER VIII

MISCELLANEOUS

Amendment
of section 3 of
Act 16 of
1955.

85. In the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, in section 3, in sub-section (1), after the words "dutiable goods", the brackets and words "(excluding goods produced or manufactured in a Special Economic Zone)" shall be inserted.

Amendment
of Seventh
Schedule to
Act 14 of
2001.

86. The Seventh Schedule to the Finance Act, 2001 shall be amended in the manner specified in the Eleventh Schedule.

Amendment
of Seventh
Schedule to
Act 18 of
2005.

87. The Seventh Schedule to the Finance Act, 2005 shall be amended in the manner specified in the Twelfth Schedule.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,60,000 | Nil; |
| (2) where the total income exceeds Rs. 1,60,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,60,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 14,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 54,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,90,000 | Nil; |
| (2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,90,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 11,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 51,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 2,40,000 | Nil; |
| (2) where the total income exceeds Rs. 2,40,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,40,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 6,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 46,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income

30 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income

30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART II**RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES**

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

Rate of income-tax

1. In the case of a person other than a company—

(a) where the person is resident in India—

(i) on income by way of interest other than "Interest on securities"

10 per cent.;

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

30 per cent.;

(iii) on income by way of winnings from horse races

30 per cent.;

(iv) on income by way of insurance commission

10 per cent.;

	<i>Rate of income-tax</i>
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	
(C) any security of the Central or State Government	
(vi) on any other income	10 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	

	Rate of income-tax
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(J) on income by way of winnings from horse races	30 per cent.;
(K) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;

	Rate of income-tax
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(F) on income by way of winnings from horse races	30 per cent.;
(G) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(H) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(I) on the whole of the other income	30 per cent.;
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on any other income	10 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(ii) on income by way of winnings from horse races	30 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(C) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	

	<i>Rate of income-tax</i>
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
111A (vii) on income by way of short-term capital gains referred to in section	15 per cent.;
(viii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(ix) on any other income	40 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of item 2(b) of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated at the rate of two and one-half per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever

applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,60,000 | Nil; |
| (2) where the total income exceeds Rs. 1,60,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,60,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 34,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000 | Rs. 94,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,90,000 | Nil; |
| (2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,90,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 31,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000 | Rs. 91,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 2,40,000 | Nil; |
| (2) where the total income exceeds Rs. 2,40,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,40,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 26,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000 | Rs. 86,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of seven and one-half per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART IV

[See section 2(13)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2010, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2010.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2011, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

THE THIRD SCHEDULE

(See section 62)

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 24, in heading 2402,—

(i) for the entry in column (2) occurring against the tariff item 2402 20 30, the entry “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 60 millimetres” shall be substituted;

(ii) for the entry in column (2) occurring against the tariff item 2402 20 40, the entry “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 60 millimetres but not exceeding 70 millimetres” shall be substituted;

(iii) for the entry in column (2) occurring against the tariff item 2402 20 50, the entry “---Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres” shall be substituted;

(iv) after tariff item 2402 20 50 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
“2402 20 60	--- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	30%	“”;

(2) in Chapter 27,—

(a) for sub-heading 2712 20 and tariff items 2712 20 10 and 2712 20 90 and the entries relating thereto, the following tariff item and entries shall be substituted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
“2712 20 00	Paraffin wax containing by weight less than 0.75% of oil	kg.	10%	“”;

(b) after tariff item 2712 90 30 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
“2712 90 40	--- Paraffin wax containing by weight 0.75% or more of oil	kg.	10%	“”;

THE FOURTH SCHEDULE

[See section 69(I)]

Sl. No.	Provisions of Central Excise Rules, 1944 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
1.	Insertion of new rule 57CCC.	<p>In the Central Excise Rules, 1944, after rule 57CC, the following rule shall be inserted, namely:—</p> <p>“57CCC. Reversal of Actual Credit.—Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of September, 1996 and ending with the 28th day of February, 1997 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2) of rule 57C and sub-rules (1) and (2) of rule 57CC, a manufacturer availing credit of specified duty in respect of any inputs, other than inputs used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are not so chargeable to duty or chargeable to nil rate of duty, shall pay an amount equivalent to such credit attributable to inputs used in, or in relation to the manufacture of, such final products which are not chargeable to duty or chargeable to nil rate of duty, before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay an interest at the rate of twenty-four per cent. per annum from the date of clearance of goods till the date of payment of the said amount.”</p>	1st day of September, 1996 to 28th day of February, 1997 (both days inclusive).
2.	Rule 57CCC of the Central Excise Rules, 1944 as inserted by section 69 of the Finance Act, 2010.	<p>In the Central Excise Rules, 1944, for rule 57CCC, the following rule shall be substituted, namely:—</p> <p>“57CCC. Reversal of Actual Credit.—Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of March, 1997 and ending with the 31st day of March, 2000 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2) of rule 57C and sub-rule (1) and sub-rule (9) of rule 57CC, a manufacturer availing credit of specified duty in respect of any inputs, other than inputs used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are not so chargeable to duty, shall pay an amount equivalent to such credit attributable to inputs used in, or in relation to the manufacture of, such final products which are not chargeable to duty, before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay an interest at the rate of twenty-four per cent. per annum from the date of clearance of goods till the date of payment of the said amount.”</p>	1st day of March, 1997 to 31st day of March, 2000 (both days inclusive).

THE FIFTH SCHEDULE

[See section 70(1)]

Sl. No.	Provisions of Central Excise Rules, 1944 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 57AD of Central Excise Rules, 1944 as inserted by notification number G.S.R. 298(E), dated the 31st March, 2000 [27/2000-Central Excise (N.T.), dated the 31st March, 2000].	<p>In the Central Excise Rules, 1944, in rule 57AD, after sub-rule (4), the following sub-rule shall be inserted, namely:—</p> <p>"(5) Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of April, 2000 and ending with the 30th day of June, 2001 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2), a manufacturer availing CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs used in, or in relation to the manufacture of, exempted goods before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the date of clearance till the date of payment of the said amount."</p>	1st day of April, 2000 to 30th day of June, 2001 (both days inclusive).

THE SIXTH SCHEDULE

[See section 71(I)]

Sl. No.	Provisions of CENVAT Credit Rules, 2001 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 6 of the CENVAT Credit Rules, 2001 as published <i>vide</i> notification number G.S.R. 445(E), dated the 21st June, 2001 [31/2001-CENTRAL EXCISE (N.T.), dated the 21st June, 2001].	<p>In the CENVAT Credit Rules, 2001, in rule 6, after sub-rule (5), the following sub-rule shall be inserted, namely:—</p> <p>‘(6) Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of July, 2001 and ending with the 28th day of February, 2002 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1), (2) and (3), a manufacturer availing CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs used in, or in relation to the manufacture of, exempted goods, before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the due date till the date of payment of the said amount.</p> <p><i>Explanation.</i>—For the purpose of this sub-rule, “due date” means the 5th day of the month following the month in which goods have been cleared from the factory.’</p>	1st day of July, 2001 to the 28th day of February, 2002 (both days inclusive).

THE SEVENTH SCHEDULE

[See section 72(1)]

Sl. No.	Provisions of CENVAT Credit Rules, 2002 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 6 of the CENVAT Credit Rules, 2002 as published <i>vide</i> notification number G.S.R. 144(E), dated the 1st March, 2002 [5 / 2002 - CENTRAL EXCISE (N.T.), dated the 1st March, 2002].	<p>In the CENVAT Credit Rules, 2002, in rule 6, after sub-rule (5), the following sub-rule shall be inserted, namely:—</p> <p>“(6) Where a dispute relating to adjustment of credit on inputs used in or in relation to exempted final products relating to the period beginning on the 1st day of March, 2002 and ending with the 9th day of September, 2004 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1), (2) and (3), a manufacturer availing CENVAT credit in respect of any inputs, except inputs intended to be used as fuel, and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs used in, or in relation to the manufacture of, exempted goods before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the due date till the date of payment of the said amount.</p> <p><i>Explanation.</i>—For the purpose of this sub-rule, “due date” means the 5th day of the month following the month in which goods have been cleared from the factory.”</p>	1st day of March, 2002 to the 9th day of September, 2004 (both days inclusive).

THE EIGHTH SCHEDULE

[See section 73(1)]

Sl. No.	Provisions of CENVAT Credit Rules, 2004 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
	Rule 6 of the CENVAT Credit Rules, 2004 as published <i>vide</i> notification number G.S.R. 600(E), dated the 10th September, 2004 [23/2004-CENTRAL EXCISE (N.T.), dated the 10th September, 2004].	<p>In the CENVAT Credit Rules, 2004, in rule 6, after sub-rule (6), the following sub-rule shall be inserted, namely:—</p> <p>‘(7) Where a dispute relating to adjustment of credit on inputs or input services used in or in relation to exempted final products relating to the period beginning on the 10th day of September, 2004 and ending with the 31st day of March, 2008 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President, then, notwithstanding anything contained in sub-rules (1) and (2), and clauses (a) and (b) of sub-rule (3), a manufacturer availing CENVAT credit in respect of any inputs or input services and manufacturing final products which are chargeable to duty and also other final products which are exempted goods, may pay an amount equivalent to CENVAT credit attributable to the inputs or input services used in, or in relation to the manufacture of, exempted goods before or after the clearance of such goods:</p> <p>Provided that the manufacturer shall pay interest at the rate of twenty-four per cent. per annum from the due date till the date of payment of the said amount.</p> <p><i>Explanation.</i>—For the purpose of this sub-rule, “due date” means the 5th day of the month following the month in which goods have been cleared from the factory.’</p>	10th day of September, 2004 to the 31st day of March, 2008 (both days inclusive).

THE TENTH SCHEDULE

[See section 83(3) and (5)]

NOTES:

1. In this Schedule, "Chapter", "heading", "sub-heading" and "tariff item" mean respectively a Chapter, heading, sub-heading and tariff item of the First Schedule to the Central Excise Tariff Act.

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, the Section and Chapter Notes and the General Rules for the Interpretation of the First Schedule shall apply to the interpretation of this Schedule.

Sl. No.	Chapter, heading, sub-heading or tariff item	Description of goods	Rate
(1)	(2)	(3)	(4)
1.	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal	Rs. 100 per tonne
2.	2702	Lignite, whether or not agglomerated, excluding jet	Rs. 100 per tonne
3.	2703	Peat (including peat litter), whether or not agglomerated	Rs. 100 per tonne.

THE ELEVENTH SCHEDULE

(See section 86)

In the Seventh Schedule to the Finance Act, 2001,—

(i) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 30, the entries “—Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 60 millimetres” and “Rs. 90 per thousand” shall respectively be substituted;

(ii) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 40, the entries “—Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 60 millimetres but not exceeding 70 millimetres” and “Rs. 90 per thousand” shall respectively be substituted;

(iii) for the entries in column (2) and column (4) occurring against the tariff item 2402 20 50, the entries “—Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres” and “Rs. 145 per thousand” shall respectively be substituted;

(iv) after tariff item 2402 20 50 and the entries relating thereto, the following tariff item and the entries shall be inserted, namely:—

Tariff Item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
“2402 20 60	— Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Tu	Rs.190 per thousand”.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 30th November, 2011.

No. RPB/15-2011/Act-15-10/E:- The following Act of Parliament is republished for general information :-

Government of India

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th May, 2010, Vaisakha 28, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 17th May, 2010, is hereby published for general information :-

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 2010

An

Act

(Act No. 15 of 2010)

[17th May, 2010]

Further to amend the Payment of Gratuity Act, 1972.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2010.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 4 of the Payment of Gratuity Act, 1972, in sub-section (3), for the words “three lakhs and fifty thousand rupees”, the words “ten lakh rupees” shall be substituted.

Amendment of section 4 of Act 39 of 1972.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,

Secretary to Government.



सत्यमेव जयते

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 30th November, 2011.

No. RPB/4-2011/Act-4-10/E:- The following Act of Parliament is republished for general information :-

Government of India

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22nd January, 2010: Magha 2, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 21st January, 2010, is hereby published for general information :-

THE RUBBER (AMENDMENT) ACT, 2009

An

Act

(Act No. 4 of 2010)

[21st January, 2010]

further to amend the Rubber Act, 1947.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

1. (1) This Act may be called the Rubber (Amendment) Act, 2009.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

24 of 1947. 2. In section 3 of the Rubber Act, 1947 (hereinafter referred to as the principal Act),-

Amendment
of section 3.

(a) after clause (g), the following clause shall be inserted, namely:-

‘(ga) “Processor” means a person who undertakes the processing of rubber;’

(b) in clause (k), for the words “fifty acres”, the words “ten hectares” shall be substituted.

Amendment of
section 4.

3. In the principal Act, in section 4, in sub-section (3), after clause (d), the following clause shall be inserted, namely:—

“(da) three members to be nominated by the Central Government of whom two shall be from the Department of Commerce and one from the Department of Agriculture and Co-operation;”.

Amendment of
section 8.

4. In the principal Act, in section 8,—

(i) in sub-section (2),—

(a) after clause (d), the following clause shall be inserted, namely:—

“(da) improving the quality of rubber and implementing the standards for quality, marking, labelling and packing for the rubber produced or processed in, imported into or exported from, India;”;

(b) in clause (e), for the words “and manufactures”, the words “manufacturers and processors” shall be substituted;

(ii) in sub-section (3), in clause (c), for the words “half-yearly reports”, the words “annual report” shall be substituted.

Substitution of
new section for
sections 9, 9A
and 9B.

5. In the principal Act, for sections 9, 9A and 9B, the following section shall be substituted, namely:—

Rubber
Development
Fund.

“9. (1) There shall be a fund to be called the Rubber Development Fund and there shall be credited,—

(a) all sums forming the funds of the Board immediately before the commencement of the Rubber (Amendment) Act, 2009;

(b) the proceeds of cess paid to the Board by the Central Government under sub-section (7) of section 12;

(c) any sum of money that may be paid to the Board by way of grants or loans by the Central Government;

(d) internal and extra budgetary resources of the Board;

(e) all moneys received and collected under section 26A; and

(f) any other sum that may be levied and collected under this Act and the rules made thereunder.

(2) The Rubber Development Fund shall be applied—

(a) to meet the expenses of the Board;

(b) to meet the cost of the measures referred to in section 8;

(c) to meet the expenditure incurred in the performance of its functions under this Act or the rules made thereunder;

(d) to meet the expenditure for rehabilitation of small growers; and

(e) for making such grants to rubber estates or for meeting the cost of such other assistance to rubber estates as the Board may think necessary for the development of such estates.”.

Omission of
section 10.

6. Section 10 of the principal Act shall be omitted.

Amendment
of section 12.

7. In the principal Act, in section 12,—

(i) in sub-section (2),—

(a) for the words “such rubber is used.”, the words “such rubber is used or from the exporter by whom such rubber is exported.” shall be substituted;



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the November, 2011.

No. RPB/3-2011/Act-3-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 22nd January, 2010. Magha 2, 1931 (Sake)

The following Act of Parliament has received the assent of the President on the 21st January, 2010, is hereby published for general information :-

THE CIVIL DEFENCE (AMENDMENT) ACT, 2009

AN ACT

further to amend the Civil Defence Act, 1968.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

- 27 of 1968. 1. This Act may be called the Civil Defence (Amendment) Act, 2009.
2. In section 2 of the Civil Defence Act, 1968,-

Short title.

(i) in clause (a), after the words "time of such attack", the words "or any measuer taken Amendment of for the purpose of disaster management, before, during, at or after 'any disaster' shall be section 2. inserted;

(ii) after clause (f) the following clauses shall be inserted, namely:-

53 of 2005. (g) "disaster" means a disaster as defined in clause (d) of section 2 of the Disaster Management Act, 2005;

53 of 2005. (h) "disaster management" means the disaster management as defined in clause (e) of section 2 of the Disaster Management Act, 2005.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/24-2011/Act-24-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 19th August, 2010, Sravana 28, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 18th August, 2010, is hereby published for general information :-

THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 2010

An

(Act No. 24 of 2010)

Act

[18th August, 2010]

further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

Short title and
commencement.

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

14 of 1947.

2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2,-

Amendment
of section 2.

(i) in clause (a),-

(a) in sub-clause (i) for the words "major port, the Central Government, and" the words "major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and" shall be substituted

(b) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.”;

(ii) in clause (s), in sub-clause (iv), for the words “one thousand six hundred rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of section 2A.

3. Section 2A of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”.

Amendment of section 7.

4. In section 7 of the principal Act, in sub-section (3), after clause (e), the following clauses shall be inserted, namely:—

“(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(g) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.”.

Amendment of section 7A.

5. In section 7A of the principal Act, in sub-section (3), after clause (aa), the following clauses shall be inserted, namely:—

“(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(c) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.”.

6. After section 9B of the principal Act, for Chapter IIB, the following Chapter shall be substituted, namely:—

Substitution of new Chapter for Chapter IIB.

"CHAPTER IIB

GRIEVANCE REDRESSAL MACHINERY

9C. (1) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

Setting up of Grievance Redressal Machinery.

(2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.

(3) The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed more than six:

Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.

(6) The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.

(7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.

(8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment concerned."

7. In section 11 of the principal Act, after sub-section (8), the following sub-sections shall be inserted, namely:—

Amendment of section 11.

"(9) Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure, 1908.

5 of 1908.

(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it."

8. In section 38 of the principal Act, in sub-section (2),—

Amendment of section 38.

(i) clause (ab) shall be omitted;

(ii) for clause (c), the following clause shall be substituted, namely:—

"(c) the salaries and allowances and the terms and conditions for appointment of the presiding officers of the Labour Court, Tribunal and the National Tribunal including the allowances admissible to members of Courts, Boards and to assessors and witnesses;"

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,
Secretary to Government.

Government Central Press, Gandhinagar



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/23-2011/Act-23-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 19th August, 2010, Sravana 28, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 18th August, 2010, is hereby published for general information :-

THE CLINICAL ESTABLISHMENTS (REGISTRATION AND REGULATION) ACT, 2010

An Act

(Act No. 23 of 2010)

[18th August, 2010]

to provide for the registration and regulation of clinical establishments in the country and for matters connected therewith or incidental thereto.

WHEREAS, it is considered expedient do provide for the registration and regulation of clinical establishments with a view to prescribe minimum standards of facilities and services which may be provided by them so that mandate of article 47 the Constitution for improvement in public health may be achieved;

AND WHEREAS, Parliament has no power to make laws for the State with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS, in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
application
and
commencement.

1. (1) This Act may be called the Clinical Establishments (Registration and Regulation) Act, 2010.

(2) It applies, in the first instance, to the whole of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force at once in the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim and the Union territories, on such date as the Central Government may, by notification, appoint and in any other State which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory:

Provided that different dates may be appointed for different categories of clinical establishments and for different recognised systems of medicine.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "authority" means the district registering authority set-up under section 10;

(b) "certificate" means certificate of registration issued under section 30;

(c) "clinical establishment" means—

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or

(ii) a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not,

and shall include a clinical establishment owned, controlled or managed by—

(a) the Government or a department of the Government;

(b) a trust, whether public or private;

(c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government;

(d) a local authority; and

(e) a single doctor,

but does not include the clinical establishments owned, controlled or managed by the Armed Forces.

Explanation.—For the purpose of this clause "Armed Forces" means the forces constituted under the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957;

46 of 1950.
45 of 1950.
62 of 1957.

(d) "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) of such a nature that the absence of immediate medical attention could reasonably be expected to result in—

(i) placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy; or

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any organ or part of a body;

(e) "National Council" means the National Council for clinical establishments established under section 3;

(f) "notification" means a notification published in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(h) "recognised system of medicine" means Allopathy, Yoga, Naturopathy, Ayurveda, Homoeopathy, Siddha and Unani System of medicines or any other system of medicine as may be recognised by the Central Government;

(i) "register" means the register maintained by the authority, State Government and the Central Government under sections 37, 38 and 39 respectively of this Act containing the number of clinical establishments registered;

(j) "registration" means to register under section 11 and the expression registration or registered shall be construed accordingly;

(k) "rules" means rules made under this Act;

(l) "Schedule" means the Schedule appended to this Act;

(m) "standards" means the conditions that the Central Government may prescribe under section 12, for the registration of clinical establishments;

(n) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution; and

(o) "to stabilise (with its grammatical variations and cognate expressions)" means, with respect to an emergency medical condition specified in clause (d), to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a clinical establishment.

CHAPTER II

THE NATIONAL COUNCIL FOR CLINICAL ESTABLISHMENTS

3. (1) With effect from such date as the Central Government may, by notification appoint in this behalf, there shall be established for the purposes of this Act, a Council to be called the National Council for clinical establishments.

Establishment
of National
Council.

(2) The National Council shall consist of—

(a) Director-General of Health Service, Ministry of Health and Family Welfare, *ex officio*, who shall be the Chairperson;

(b) four representatives out of which one each to be elected by the—

(i) Dental Council of India constituted under section 3 of the Dentists Act, 1948;

(ii) Medical Council of India constituted under section 3 of the Indian Medical Council Act, 1956;

102 of 1956.

(iii) Nursing Council of India constituted under section 3 of the Indian Nursing Council Act, 1947;

48 of 1947.

(iv) Pharmacy Council of India constituted under section 3 of the Pharmacy Act, 1948;

8 of 1948.

(c) three representatives to be elected by the Central Council of Indian Medicine representing the Ayurveda, Siddha and Unani systems of medicine constituted under section 3 of the Indian Medicine Central Council Act, 1970;

48 of 1970.

(d) one representative to be elected by the Central Council of Homoeopathy constituted under section 3 of the Homoeopathy Central Council Act, 1973;

59 of 1973.

(e) one representative to be elected by the Central Council of the Indian Medical Association;

(f) one representative of Bureau of the Indian Standards constituted under section 3 of the Bureau of Indian Standards Act, 1986;

63 of 1986.

(g) two representatives from the Zonal Council set-up under section 15 of the States Reorganisation Act, 1956;

37 of 1956.

(h) two representatives from the North-Eastern Council set-up under section 3 of the North-Eastern Council Act, 1971;

84 of 1971.

(i) one representative from the line of paramedical systems excluding systems that have been given representation under clause (b);

(j) two representatives from National Level Consumer Group to be nominated by the Central Government;

(k) one representative from the Associations of Indian Systems of Medicines relating to Ayurveda, Siddha and Unani to be nominated by the Central Government;

(l) the Secretary-General of the Quality Council of India, *ex officio*.

(3) The nominated members of the National Council shall hold office for three years but shall be eligible for re-nomination for maximum of one more term of three years.

(4) The elected members of the National Council shall hold office for three years, but shall be eligible for re-election:

Provided that the person nominated or elected, as the case may be, shall hold office for such period till he holds appointment of the office by virtue of which he was nominated or elected to the council.

(5) The members of the National Council shall be entitled for such allowances as may be prescribed by the Central Government.

(6) The National Council may, subject to the previous approval of the Central Government, make bye-laws fixing a quorum and regulating its own procedure and the conduct of all business to be transacted by it.

(7) The National Council shall meet at least once in three months.

(8) The National Council may constitute sub-committees and may appoint to such sub-committee, as it deems fit, persons, who are not members of the National Council, for such period, not exceeding two years, for the consideration of particular matters.

(9) The functions of the National Council may be exercised notwithstanding any vacancy therein.

(10) The Central Government shall appoint such person to be the Secretary of the National Council as the Central Government may prescribe, and may provide the National Council with such other secretarial and other staff as the Central Government considers necessary.

4. A person shall be disqualified for being appointed as a member of the National Council if he—

Disqualifications for appointment as member.

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Council as is likely to affect prejudicially the discharge by him of his functions as a member.

5. The National Council shall—

Functions of National Council.

(a) compile and publish a National Register of clinical establishments within two years from the date of the commencement of this Act;

(b) classify the clinical establishments into different categories;

(c) develop the minimum standards and their periodic review;

(d) determine within a period of two years from its establishment, the first set of standards for ensuring proper healthcare by the clinical establishments;

(e) collect the statistics in respect of clinical establishments;

(f) perform any other function determined by the Central Government from time to time.

6. The National Council may associate with itself any person or body whose assistance or advice it may desire in carrying out any of the provisions of this Act.

Power to seek advice or assistance.

7. The National Council shall follow a consultative process for determining the standards and for classification of clinical establishments in accordance with such procedure as may be prescribed.

National Council to follow consultative process.

CHAPTER III

REGISTRATION AND STANDARDS FOR CLINICAL ESTABLISHMENTS

8. (1) Every State Government shall by notification constitute a State Council for clinical establishments or the Union territory Council for clinical establishments, as the case may be.

State Council of clinical establishments.

(2) The State Council or the Union territory Council, as the case may be, shall consist of the following members, namely:—

(a) Secretary, Health — *ex officio*, who shall be the Chairman;

(b) Director of Health Services — *ex officio* member-secretary;

(c) Directors of different streams of Indian Systems of Medicine—*ex officio* members;

(d) one representative each to be elected by the executive committee of—

(i) State Medical Council of India;

(ii) State Dental Council of India;

(iii) State Nursing Council of India;

(iv) State Pharmacy Council of India;

(e) three representatives to be elected by the Executive of the State Council or the Union territory Council, as the case may be, of Indian Medicine representing the Ayurveda, Siddha and Unani systems of medicine;

(f) one representative to be elected by the State Council of the Indian Medical Association;

(g) one representative from the line of paramedical systems;

(h) two representatives from State level consumer groups or reputed non-Governmental organisations working in the field of health.

(3) The nominated member of the State Council or the Union territory Council, as the case may be, shall hold office for a term of three years, but shall be eligible for re-nomination for maximum of one more term of three years.

(4) The elected members of the State Council or the Union territory Council, as the case may be, shall hold office for three years, but shall be eligible for re-election:

Provided that the person nominated or elected, as the case may be, shall hold office for so long as he holds the appointment of the office by virtue of which he was nominated or elected to the State Council or the Union territory Council, as the case may be:

(5) The State Council or the Union territory Council shall perform the following functions, namely:—

(a) compiling and updating the State Registers of clinical establishment;

(b) sending monthly returns for updating the National Register;

(c) representing the State in the National Council;

(d) hearing of appeals against the orders of the authority; and

(e) publication on annual basis a report on the state of implementation of standards within their respective States.

Providing
information
to National
Council.

9. It shall be the responsibility of the State Council for clinical establishments to compile and update the State Register of clinical establishments of the State and further to send monthly returns in digital format for updating the National Register.

Authority for
registration.

10. (1) The State Government shall, by notification, set-up an authority to be called the district registering authority for each district for registration of clinical establishments, with the following members, namely:—

(a) District Collector — Chairperson;

(b) District Health Officer — Convenor;

(c) three members with such qualifications and on such terms and conditions as may be prescribed by the Central Government.

(2) Notwithstanding anything contained in sub-section (1), for the purposes of provisional registration of clinical establishments under section 14, the District Health Officer or the Chief Medical Officer (by whatever name called) shall exercise the powers of the authority as per procedure that may be prescribed.

Registration
for clinical
establishments.

11. No person shall run a clinical establishment unless it has been duly registered in accordance with the provisions of this Act.

Condition for
registration.

12. (1) For registration and continuation, every clinical establishment shall fulfil the following conditions, namely:—

(i) the minimum standards of facilities and services as may be prescribed;

- (ii) the minimum requirement of personnel as may be prescribed;
- (iii) provisions for maintenance of records and reporting as may be prescribed;
- (iv) such other conditions as may be prescribed.

(2) The clinical establishment shall undertake to provide within the staff and facilities available, such medical examination and treatment as may be required to stabilise the emergency medical condition of any individual who comes or is brought to such clinical establishment.

13. (1) Clinical establishment of different systems shall be classified into such categories, as may be prescribed by the Central Government, from time to time.

Classification of clinical establishments.

(2) Different standards may be prescribed for classification of different categories referred to in sub-section (1):

Provided that in prescribing the standards for clinical establishments, the Central Government shall have regard to the local conditions.

CHAPTER IV

PROCEDURE FOR REGISTRATION

14. (1) For the purposes of registration of the clinical establishment under section 10, an application in the prescribed proforma along with the prescribed fee shall be made to the authority.

Application for provisional certificate of registration.

(2) The application shall be filed in person or by post or online.

(3) The application shall be made in such form and shall be accompanied by such details as may be prescribed under this Act or rules made thereunder.

(4) If any clinical establishment is in existence at the time of the commencement of this Act, an application for its registration shall be made within one year from the date of the commencement of this Act and a clinical establishment which comes into existence after commencement of this Act, shall apply for permanent registration within a period of six months from the date of its establishment.

(5) If any clinical establishment is already registered under any existing law requiring registration of such establishments, even then it shall apply for registration as referred to in sub-section (1).

15. The authority shall, within a period of ten days from the date of receipt of such application, grant to the applicant a certificate of provisional registration in such form and containing such particulars and such information, as may be prescribed.

Provisional certificate.

16. (1) The authority shall not conduct any inquiry prior to the grant of provisional registration.

No inquiry prior to provisional registration.

(2) Notwithstanding the grant of the provisional certificate of registration, the authority shall, within a period of forty-five days from the grant of provisional registration, cause to be published in such manner, as may be prescribed, all particulars of the clinical establishment so registered provisionally.

17. Subject to the provisions of section 23, every provisional registration shall be valid to the last day of the twelfth month from the date of issue of the certificate of registration and such registration shall be renewable.

Validity of provisional registration.

18. The certificate shall be kept affixed in a conspicuous place in the clinical establishment in such manner so as to be visible to every one visiting such establishment.

Display of certificate of registration.

19. In case the certificate is lost, destroyed, mutilated or damaged, the authority shall issue a duplicate certificate on the request of the clinical establishment and on the payment of such fees as may be prescribed.

Duplicate certificate.

Certificate to be non-transferable.

20. (1) The certificate of registration shall be non-transferable.

(2) In the event of change of ownership or management, the clinical establishment shall inform the authority of such change in such manner as may be prescribed.

(3) In the event of change of category, or location, or on ceasing to function as a clinical establishment, the certificate of registration in respect of such clinical establishment shall be surrendered to the authority and the clinical establishment shall apply afresh for grant of certificate of registration.

Publication of expiry of registration.

21. The authority shall cause to be published within such time and in such manner, as may be prescribed, the names of clinical establishments whose registration has expired.

Renewal of registration.

22. The application for renewal of registration shall be made thirty days before the expiry of the validity of the certificate of provisional registration and, in case the application for renewal is made after the expiry of the provisional registration, the authority shall allow renewal of registration on payment of such enhanced fees, as may be prescribed.

Time limit for provisional registration.

23. Where the clinical establishments in respect of which standards have been notified by the Central Government, provisional registration shall not be granted or renewed beyond,—

(i) the period of two years from the date of notification of the standards in case of clinical establishments which came into existence before the commencement of this Act;

(ii) the period of two years from the date of notification of the standards for clinical establishments which come into existence after the commencement of this Act but before the notification of the standards; and

(iii) the period of six months from the date of notification of standards for clinical establishments which come into existence after standards have been notified.

Application for permanent registration.

24. Application for permanent registration by a clinical establishment shall be made to the authority in such form and be accompanied by such fees, as may be prescribed.

Verification of application.

25. The clinical establishment shall submit evidence of having complied with the prescribed minimum standards in such manner, as may be prescribed.

Display of information for filing objections.

26. As soon as the clinical establishment submits the required evidence of having complied with the prescribed minimum standards, the authority shall cause to be displayed for information of the public at large and for filing objections, if any, in such manner, as may be prescribed, all evidence submitted by the clinical establishment of having complied with the prescribed minimum standards for a period of thirty days before processing for grant of permanent registration.

Communication of objections.

27. If objections are received within the period referred to in the preceding section, such objections shall be communicated to the clinical establishment for response within a period of forty-five days.

Standards for permanent registration.

28. Permanent registration shall be granted only when a clinical establishment fulfils the prescribed standards for registration by the Central Government.

Allowing or disallowing of registration.

29. The authority shall pass an order immediately after the expiry of the prescribed period and within the next thirty days thereafter either—

(a) allowing the application for permanent registration; or

(b) disallowing the application:

Provided that the authority shall record its reasons, if it disallows an application, for permanent registration.

30. (1) The authority shall, if it, allows an application of the clinical establishment, issue a certificate of permanent registration in such form and containing such particulars, as may be prescribed.

Certificate of permanent registration.

(2) The certificate shall be valid for a period of five years from the date of issue.

(3) For the purposes of sub-section (1), the provisions of sections 18, 19, 20 and 21 shall also apply.

(4) The applications for renewal of permanent registration shall be made within six months before the expiry of the validity of the certificate of permanent registration and, in case the application of renewal is not submitted within the stipulated period, the authority may allow renewal of registration on payment of such enhanced fees and penalties as may be prescribed.

31. The disallowing of an application for permanent registration shall not debar a clinical establishment from applying afresh for permanent registration under section 24 and after providing such evidence, as may be required, of having rectified the deficiencies on which grounds the earlier application was disallowed.

Fresh application for permanent registration.

32. (1) If, at any time after any clinical establishment has been registered, the authority is satisfied that,—

Cancellation of registration.

(a) the conditions of the registration are not being complied with; or

(b) the person entrusted with the management of the clinical establishment has been convicted of an offence punishable under this Act,

it may issue a notice to the clinical establishment to show cause within three months' time as to why its registration under this Act should not be cancelled for the reasons to be mentioned in the notice.

(2) If after giving a reasonable opportunity to the clinical establishment, the authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder, it may, by an order, without prejudice to any other action that it may take against such clinical establishment, cancel its registration.

(3) Every order made under sub-section (2) shall take effect—

(a) where no appeal has been preferred against such order immediately on the expiry of the period prescribed for such appeal; and

(b) where such appeal has been preferred and it has been dismissed from the date of the order of such dismissal:

Provided that the authority, after cancellation of registration for reasons to be recorded in writing, may restrain immediately the clinical establishment from carrying on if there is imminent danger to the health and safety of patients.

33. (1) The authority or an officer authorised by it shall have the right to cause an inspection of, or inquiry in respect of any registered clinical establishment, its building, laboratories and equipment and also of the work conducted or done by the clinical establishment, to be made by such multi-member inspection team as it may direct and to cause an inquiry to be made in respect of any other matter connected with the clinical establishment and that establishment shall be entitled to be represented thereat.

Inspection of registered clinical establishments.

(2) The authority shall communicate to the clinical establishment the views of that authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the clinical establishment thereon, advise that establishment upon the action to be taken.

(3) The clinical establishment shall report to the authority, the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry and such report shall be furnished within such time, as the authority may direct.

(4) Where the clinical establishment does not, within a reasonable time, take action to the satisfaction of the authority, it may, after considering any explanation furnished or

representation made by the clinical establishment, issue such directions within such time as indicated in the direction, as that authority deems fit, and the clinical establishment shall comply with such directions.

Power to enter.

34. The authority or an officer authorised by it may, if there is any reason to suspect that anyone is carrying on a clinical establishment without registration, enter and search in the manner prescribed, at any reasonable time and the clinical establishment, shall offer reasonable facilities for inspection or inquiry and be entitled to be represented thereat:

Provided that no such person shall enter the clinical establishment without giving notice of his intention to do so.

Levy of fee by State Government. Appeal.

35. The State Government may charge fees for different categories of clinical establishments, as may be prescribed.

36. (1) Any person, aggrieved by an order of the registering authority refusing to grant or renew a certificate of registration or revoking a certificate of registration may, in such manner and within such period as may be prescribed, prefer an appeal to the State Council:

Provided that the State Council may entertain an appeal preferred after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

CHAPTER V

REGISTER OF CLINICAL ESTABLISHMENTS

Register of clinical establishments.

37. (1) The authority shall within a period of two years from its establishment, compile, publish and maintain in digital format a register of clinical establishments, registered by it and it shall enter the particulars of the certificate so issued in a register to be maintained in such form and manner, as may be prescribed by the State Government.

(2) Each authority, including any other authority set-up for the registration of clinical establishments under any other law for the time being in force, shall supply in digital format to the State Council of clinical establishments a copy of every entry made in the register of clinical establishments in such manner, as may be prescribed to ensure that the State Register is constantly up-to-date with the registers maintained by the registering authority in the State.

Maintenance of State Register of clinical establishments.

38. (1) Every State Government shall maintain in digital and in such form and containing such particulars, as may be prescribed by the Central Government a register to be known as the State Register of clinical establishments in respect of clinical establishments of that State.

(2) Every State Government shall supply in digital format to the Central Government, a copy of the State Register of clinical establishments and shall inform the Central Government all additions to and other amendments in such register made, for a particular month by the 15th day of the following month.

Maintenance of National Register of clinical establishments.

39. The Central Government shall maintain in digital format an All India Register to be called as the National Register of clinical establishments that shall be an amalgam of the State Register of clinical establishments maintained by the State Governments and shall cause the same to be published in digital format.

CHAPTER VI

PENALTIES

Penalty.

40. Whoever contravenes any provision of this Act shall, if no penalty is provided elsewhere, be punishable for the first offence with fine which may extend to ten thousand

rupees, for any second offence with fine which may extend to fifty thousand rupees and for any subsequent offence with fine which may extend to five lakh rupees.

41. (1) Whoever carries on a clinical establishment without registration shall, on first contravention, be liable to a monetary penalty up to fifty thousand rupees, for second contravention with a monetary penalty which may extend to two lakh rupees and for any subsequent contravention with a monetary penalty which may extend to five lakh rupees.

Monetary
penalty for
non-
registration.

(2) Whoever knowingly serves in a clinical establishment which is not duly registered under this Act, shall be liable to a monetary penalty which may extend to twenty-five thousand rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty specified in those sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8) of section 42.

(5) While determining the quantum of monetary penalty, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the State Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

42. (1) Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall be liable to a monetary penalty which may extend to five lakh rupees.

Disobedience
of direction,
obstruction
and refusal of
information.

(2) Whoever being required by or under this Act to supply any information wilfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall be liable to a monetary penalty which may extend to five lakh rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the authority shall hold an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry the authority shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty specified in those sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8).

(5) While determining the quantum of monetary penalty, the authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the establishment is situated.

(6) Any person aggrieved by the decision of the authority may prefer an appeal to the State Council within a period of three months from the date of the said decision.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such as may be prescribed.

(8) The monetary penalty levied under sections 41 and 42 shall be credited to such account as the State Government may by order specify in this behalf.

Penalty for
minor
deficiencies.

43. Whoever contravenes any provision of this Act or any rule made thereunder resulting in deficiencies that do not pose any imminent danger to the health and safety of any patient and can be rectified within a reasonable time, shall be punishable with fine which may extend to ten thousand rupees.

Contravention
by companies.

44. (1) Where a person committing contravention of any of the provisions of this Act or of any rule made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to fine:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that contravention and shall be liable to fine.

Explanation.—For the purpose of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Offences by
Government
Departments.

45. (1) Where an offence under this Act has been committed by any Department of Government within a period of six months after the commencement of this Act, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Recovery of
fine.

46. Whoever fails to pay the fine, the State Council of clinical establishment may prepare a certificate signed by an officer authorised by it specifying the fine due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder, as if it were an arrear of land revenue.

CHAPTER VII

MISCELLANEOUS

47. (1) No suit, prosecution or other legal proceedings shall lie against any authority or any member of the National Council or State Council or any officer authorised in this behalf in respect of anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

Protection of action taken in good faith.

(2) No suit or other legal proceedings shall lie against a State Government or the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

48. Every clinical establishment shall, within such time or within such extended time, as may be prescribed in that behalf, furnish to the authority or the State Council or the National Council such returns or the statistics and other information in such manner, as may be prescribed by the State Government, from time to time.

Furnishing of returns, etc.

49. Without prejudice to the foregoing provisions of this Act, the authority shall have the power to issue such directions, including furnishing returns, statistics and other information for the proper functioning of clinical establishments and such directions shall be binding.

Power to give directions.

50. Every employee of the authority, the National Council and the State Council shall be deemed to, when acting or purporting to act in pursuance of any of the provisions of this Act, be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Employees of the authority, etc., to be public servants.

51. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

52. (1) The Central Government may, by notification, make rules for carrying out all or any of the provisions of this Act.

Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) allowances for the members of the National Council under sub-section (5) of section 3;

(b) appointment of such person to be the Secretary of the State Council by the Central Government under sub-section (10) of section 3;

(c) the determination of standards and for classification of clinical establishments under section 7;

(d) the qualification and the terms and conditions for the members of the authority under clause (c) of sub-section (1) of section 10;

(e) the procedure under which the powers of the authority may be exercised by the District Health Officer or Chief Medical Officer for the purpose of provisional registration of clinical establishment under sub-section (2) of section 10;

(f) the minimum standards of facilities and services under clause (i) of sub-section (1) of section 12;

(g) the minimum number of personnel under clause (ii) of sub-section (1) of section 12;

(h) the maintenance of records and reporting by the clinical establishment under clause (iii) of sub-section (1) of section 12;

(i) other conditions for registration and continuation of clinical establishment under clause (iv) of sub-section (1) of section 12;

(j) classification of clinical establishment under sub-section (1) of section 13;

(k) the different standards for classification of clinical establishments under sub-section (2) of section 13;

(l) the minimum standards for permanent registration under section 28;

(m) the form and particulars to be contained in the register to be maintained under section 38.

Laying of rules.

53. Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

54. (1) The State Government may, by notification, make rules for carrying out in respect of matters which do not fall within the purview of section 52.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the proforma and the fee to be paid for registration under sub-section (1) of section 14;

(b) the form and details of application under sub-section (3) of section 14;

(c) the particulars and information contained in certificate of provisional registration under section 15;

(d) the manner of publication of all particulars of the clinical establishments proposed to be registered under sub-section (2) of section 16;

(e) the fees to be paid to issue a duplicate certificate under section 19;

(f) the change of ownership or management to be informed by the clinical establishment to the authority under sub-section (2) of section 20;

(g) the manner in which the authority shall publish the names of the clinical establishments whose registration expired under section 21;

(h) the enhanced fees to be charged for renewal after expiry of the provisional registration under section 22;

(i) the form of the application and fees to be charged by the State Government under section 24;

(j) the manner of submitting evidence of the clinical establishments having complied with the minimum standards under section 25;

(k) the manner of displaying information of the clinical establishments having complied with the minimum standards for filing objection under section 26;

(l) the expiry of period specified in section 29;

(m) the form and particulars of the certificate of registration under section 30;

(n) the period within which an appeal shall be preferred under clause (a) of sub-section (3) of section 32;

(o) the manner of entry and search of clinical establishment under section 34;

(p) the fees to be charged by the State Government for different categories of clinical establishments under section 35;

(q) the manner and the period within which an appeal may be preferred to the State Council under sub-section (1) of section 36;

(r) the form and the fee to be paid for an appeal under sub-section (2) of section 36;

(s) the form and the manner in which the register to be maintained under sub-section (1) of section 37;

(t) the manner of supply to the State Council in digital format the entry made in the register of clinical establishment under sub-section (2) of section 37;

(u) the manner of holding an inquiry by the authority under sub-section (3) of sections 41 and 42;

(v) the manner of filing the appeal under sub-section (7) of sections 41 and 42;

(w) the manner and the time within which the information is to be furnished to the authority or the State Council or the National Council as the case may be, under section 48;

(x) any other matter which is required to be or may be prescribed by the State Government.

55. Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House. Laying of rules.

56. (1) The provisions of this Act shall not apply to the States in which the enactments specified in the Schedule are applicable: Savings.

Provided that the States in which the enactments referred to in sub-section (1) are applicable, and such States subsequent to the commencement of this Act, adopts this Act under clause (1) of article 252 of the Constitution, the provisions of this Act shall, subsequent to such adoption, apply in that State.

(2) The Central Government may, as and when consider necessary, by notification amend the Schedule.

THE SCHEDULE

[See section 56]

1. The Andhra Pradesh Private Medical Care Establishments (Registration and Regulation) Act, 2002.
2. The Bombay Nursing Homes Registration Act, 1949.
3. The Delhi Nursing Homes Registration Act, 1953.
4. The Madhya Pradesh Upcharya Griha Tatha Rujopchar Sanbabdu Sthapamaue (Ragistrikan Tatha Anugyapan) Adhiniyam, 1973.
5. The Manipur Homes and Clinics Registration Act, 1992.
6. The Nagaland Health Care Establishments Act, 1997.
7. The Orissa Clinical Establishments (Control and Regulation) Act, 1990.
8. The Punjab State Nursing Home Registration Act, 1991.
9. The West Bengal Clinical Establishments Act, 1950.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.

Government Central Press, Gandhinagar



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LII] FRIDAY, DECEMBER 2, 2011/AGRAHAYANA 11, 1933

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/30-2011/Act-30-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 1st September, 2010, Bhadra 10, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 31st August, 2010, is hereby published for general information :-

THE PERSONAL LAWS (AMENDMENT) ACT, 2010

An Act

(Act No. 30 of 2010)

[31st August, 2010]

Further to amend the Guardians and Wards Act, 1890 and the Hindu Adoptions and Maintenance Act, 1956

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. This Act may be called the Personal Laws (Amendment) Act, 2010.

Short title

CHAPTER II

AMENDMENT TO THE GUARDIANS AND WARDS ACT, 1890

2. In section 19 of the Guardians and Wards Act, 1890, for clause (b), the following clause shall be substituted, namely :-

Amendment of section 19 of Act 8 of 1890.

"(b) of a minor, other than a married female, whose father or mother is living and is not, in the opinion of the court, unfit to be guardian of the person of the minor, or".

CHAPTER III

AMENDMENTS TO THE HINDU ADOPTIONS AND MAINTENANCE ACT, 1956

78 of 1956

Substitution of new section for section 8. 3. In the Hindu Adoptions and Maintenance Act, 1956 (hereafter in this Chapter referred to as the Hindu Adoptions and Maintenance Act), for section 8, the following section shall be substituted, namely:—

Capacity of a female Hindu to take in adoption.

"8. Any female Hindu who is of sound mind and is not a minor has the capacity to take a son or daughter in adoption:

Provided that, if she has a husband living, she shall not adopt a son or daughter except with the consent of her husband unless the husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind."

Amendment of section 9.

4. In the Hindu Adoptions and Maintenance Act, in section 9,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Subject to the provisions of sub-section (4), the father or the mother, if alive, shall have equal right to give a son or daughter in adoption:

Provided that such right shall not be exercised by either of them save with the consent of the other unless one of them has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.;"

(ii) sub-section (3) shall be omitted.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.

Government Central Press, Gandhinagar



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/28-2011/Act-28-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 25th August, 2010. Bhadra 3, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 24th August, 2010, is hereby published for general information :-

THE ENERGY CONSERVATION (AMENDMENT) ACT, 2010

AN ACT

(Act No. 28 of 2010)

[24th August, 2010]

to amend the Energy Conservation Act, 2001.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. This Act may be called the Energy Conservation (Amendment) Act, 2010.

Short title .

52 of 2001.

2. In section 2 of the Energy Conservation Act, 2001 (hereinafter referred to as the principal Act),-

Amendment of section 2.

(i) in clause (a), for the words “an auditor possessing qualifications specified under”, the words “an energy auditor accredited in accordance with the provisions of” shall be substituted;

(ii) in clause (b) for the words and figures “established under section 30”, the words and figures “referred to in section 30” shall be substituted;

(iii) in clause (m), for the words "energy managers", the words "energy auditors and energy managers" shall be substituted;

(iv) in clause (o), for the words "such form and manner", the words "such form, the time within which and the manner" shall be substituted.

7. After section 14 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 14A and 14B.

"14A. (1) The Central Government may issue the energy savings certificate to the designated consumer whose energy consumption is less than the prescribed norms and standards in accordance with the procedure as may be prescribed.

Power of Central Government to issue energy savings certificate.

(2) The designated consumer whose energy consumption is more than the prescribed norms and standards shall be entitled to purchase the energy savings certificate to comply with the prescribed norms and standards.

14B. The Central Government may, in consultation with the Bureau, prescribe the value of per metric ton of oil equivalent of energy consumed for the purposes of this Act."

Power of Central Government to specify value of energy.

8. In section 26 of the principal Act,—

Amendment of section 26.

(a) in sub-section (1),—

(i) the words, brackets and letter "or clause (n)" shall be omitted;

(ii) for the words "ten thousand rupees", the words "ten lakh rupees" shall be substituted;

(iii) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) If any person fails to comply with the provisions of clause (n) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees and, in the case of continuing failure, with an additional penalty which shall not be less than the price of every metric ton of oil equivalent of energy, prescribed under this Act, that is in excess of the prescribed norms."

9. For section 30 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 30.

"30. The Appellate Tribunal established under section 110 of the Electricity Act, 2003 shall, without prejudice to the provisions of the Electricity Act, 2003, be the Appellate Tribunal for the purposes of this Act and hear appeals against the orders of the adjudicating officer or the Central Government or the State Government or any other authority under this Act."

Appellate Tribunal.

10. After section 31 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 31A.

"31A. The provisions of sections 120 to 123 (both inclusive) of the Electricity Act, 2003 shall, *mutatis mutandis*, apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its function under the Electricity Act, 2003."

Procedure and powers of Appellate Tribunal.

Omission of
sections 32 to
43.

11. Sections 32 to 43 of the principal Act shall be omitted.

Amendment
of section 54.

12. In section 54 of the principal Act, the words "Chairperson of the Appellate Tribunal or the Members of the Appellate Tribunal or officers or employees of the Appellate Tribunal or the Members of the State Commission or the" shall be omitted.

Amendment
of section 56.

13. In section 56 of the principal Act, in sub-section (2),—

(i) in clause (j), for the words "energy managers", the words "energy auditors and energy managers" shall be substituted;

(ii) after sub-clause (l), the following clauses shall be inserted, namely:—

"(la) prescribing the procedure for issuing the energy savings certificate under sub-section (1) of section 14A;

(laa) the value of per metric ton of oil equivalent of energy consumed under section 14B;"

(iii) clauses (s), (t) and (u) shall be omitted.

Amendment
of section 58.

14. In section 58 of the principal Act, in sub-section (2),—

(a) for clause (f), the following clause shall be substituted, namely:—

"(f) the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation under clause (p) of sub-section (2) of section 13;"

(b) in clause (h), for the words "energy managers", the words "energy auditors and energy managers" shall be substituted.

Amendment
of the
Schedule.

15. In the Schedule to the principal Act, in the heading, the words "specified as designated consumers" shall be omitted.

Amendment
of certain
enactment.

16. The enactment specified in the Schedule to this Act shall be amended in the manner specified therein.



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The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LIII] FRIDAY, DECEMBER 2, 2011/AGRAHAYANA 11, 1933

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, Dated the 2nd December, 2011.

No. RPB/27-2011/Act-27-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 25th August, 2010. Bhadra 3, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 24th August, 2010, is hereby published for general information :-

THE STATE BANK OF INDIA (AMENDMENT) ACT, 2010

AN ACT

(Act No. 27 of 2010)

[24th August, 2010]

further to amend the State Bank of India, 1955.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the State Bank of India (Amendment) Act, 2010.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

23 of 1955. 2. In section 2 of the State Bank of India Act, 1955 (hereinafter referred to as the principal Act), clause (i) shall be omitted. Amendment of section 2.

Substitution of
new section
for section 4.

Authorised
capital.

3. For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. Subject to the provisions of this Act, the authorised capital of the State Bank shall be five thousand crores of rupees divided into five hundred crores of fully paid-up shares of ten rupees each:

Provided that the Central Board may reduce the nominal or face value of the shares, and divide the authorised capital into such denomination as it may decide with the approval of the Reserve Bank:

Provided further that the Central Government may, in consultation with the Reserve Bank, increase or reduce the authorised capital so however that the shares in all cases shall be fully paid-up shares."

Amendment of
section 5.

4. In section 5 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The issued capital of the State Bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued:

Provided further that the Central Board may from time to time increase, with the previous approval of the Reserve Bank and the Central Government, whether by public issue or rights issue or preferential allotment or private placement, in accordance with the procedure as may be prescribed, the issued capital by the issue of equity or preference shares:

Provided also that the Central Government shall, at all times, hold not less than fifty-one per cent. of the issued capital consisting of equity shares of the State Bank.;"

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(4) Subject to the provisions contained in sub-section (2), the Central Board may increase from time to time, by way of issuing bonus shares to existing equity shareholders, the issued capital in such manner as the Central Government may, after consultation with the Reserve Bank, direct.

(5) The State Bank may, accept the money in respect of shares issued towards increase in the issued capital in instalments, make calls, forfeit unpaid shares and re-issue them, in such manner as may be prescribed."

Amendment of
section 10.

5. In section 10 of the principal Act, in sub-section (2), for the words "fifty-five per cent. of the issued capital", the words "fifty-one per cent. of the issued capital consisting of equity shares," shall be substituted.

Insertion of new
section 10A.

6. After section 10 of the principal Act, the following section shall be inserted, namely:—

Right of
registered
shareholders
to nominate.

"10A. (1) Every individual registered shareholder may, at any time, nominate, in the prescribed manner, an individual to whom all his rights in the shares shall vest in the event of his death.

(2) Where the shares are registered in the name of more than one individual jointly, the joint holders may together nominate in the prescribed manner, an individual to whom all their rights in the shares shall vest in the event of the death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, where a nomination in respect of shares is made in the prescribed manner and which purports to confer on the nominee the right to vest the shares, the nominee shall, on the death of the shareholder or, as the case may be, on the death of all the joint holders, become entitled to all the rights of the shareholder or, as the case may be, of all the joint holders, in relation to such shares and all other persons shall be excluded unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the individual registered holder of the shares to make nomination to appoint, in the prescribed manner, any person to become entitled to the shares in the event of his death during the minority of the nominee."

7. In section 11 of the principal Act, after the proviso, the following provisos shall be inserted, namely:— Amendment of section 11.

"Provided further that the shareholder holding any preference share capital in the State Bank shall, in respect of such capital, have a right to vote only on resolutions placed before the State Bank which directly affect the rights attached to his preference shares:

Provided also that no preference shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of preference shares held by him in excess of ten per cent. of total voting rights of all the shareholders holding preference share capital only."

8. In section 13 of the principal Act, in sub-section (2), for the words "in computer floppies or diskettes", the words "in computer floppies or diskettes or any other electronic form" shall be substituted. Amendment of section 13.

9. In section 16 of the principal Act,—

(a) in sub-section (1), for the word "Bombay", the words "Mumbai, and shall also be known as Corporate Centre" shall be substituted;

(b) in sub-section (2), for the words "Bombay, Calcutta and Madras", the words "Mumbai, Kolkata and Chennai" shall be substituted.

Amendment of section 16.

10. In section 19 of the principal Act,—

(a) in clause (a), the words "and a vice-chairman" shall be omitted;

(b) for clause (b), the following clause shall be substituted, namely:—

"(b) such number of managing directors not exceeding four, as may be appointed by the Central Government in consultation with the Reserve Bank;"

(c) clause (bb) shall be omitted;

(d) in clause (d), the words "in consultation with the Reserve Bank," shall be omitted;

(e) for clause (f), the following clause shall be substituted, namely:—

"(f) one director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks to be nominated by the Central Government on the recommendation of the Reserve Bank."

Amendment of section 19.

11. After section 19 of the principal Act, the following sections shall be inserted, namely:—

"19A. (1) The directors elected under clause (c) of section 19 shall—

(a) have special knowledge or experience in respect of one or more of the following areas, namely:—

(i) agriculture and rural economy,

Insertion of new sections 19A and 19B.

Qualifications for election of directors elected by shareholders.

- (ii) banking,
- (iii) co-operation,
- (iv) economics,
- (v) finance,
- (vi) law,
- (vii) small-scale industry,
- (viii) any other area the special knowledge of, and experience in, which in the opinion of the Reserve Bank shall be useful to the State Bank;
- (b) represent the interests of depositors; or
- (c) represent the interests of farmers, workers and artisans.

(2) Without prejudice to the provisions of sub-section (1) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause (c) of section 19 unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard and the Reserve Bank may specify in the notification issued under this sub-section, the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determinations and such other matters as may be considered necessary or incidental thereto.

(3) Where the Reserve Bank is of the opinion that any director of the State Bank elected under clause (c) of section 19 does not fulfil the requirements of sub-sections (1) and (2), it may, after giving to such director and the State Bank a reasonable opportunity of being heard, by order, remove such director.

(4) On the removal of a director under sub-section (3), the Central Board shall co-opt any other person fulfilling the requirements of sub-sections (1) and (2), as a director in place of the person so removed, till a director is duly elected by the shareholders of the State Bank in the next annual general meeting; and the person so co-opted shall be deemed to have been duly elected by the shareholders of the State Bank as a director.

Power of
Reserve Bank
to appoint
additional
directors.

19B. (1) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the State Bank or its depositors, it is necessary so to do, it may, from time to time and by order in writing appoint, with effect from such date as may be specified in the order, one or more persons as additional directors of the State Bank.

(2) Any person appointed as additional director under sub-section (1) shall,—

(a) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may, by order, specify;

(b) not incur any obligation or liability by reason only of his being an additional director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) not be required to hold qualification shares in the State Bank.

(3) For the purpose of reckoning any proportion of the total number of directors of the State Bank, any additional director appointed under this section shall not be taken into account."

Amendment of
section 20.

12. In section 20 of the principal Act,—

(a) in sub-section (1), the words ", vice-chairman" shall be omitted;

(b) in sub-section (1A), the word ", vice-chairman", occurring at both the places, shall be omitted;

(c) in sub-section (3A), the words "and thereafter until his successor shall have been duly appointed or nominated", shall be omitted.

13. In section 21 of the principal Act,—

Amendment of section 21.

(a) in sub-section (1) —

(i) for clause (a), the following clause shall be substituted, namely: —

"(a) the chairman, *ex officio* or the managing director nominated by the chairman;"

(ii) in clause (c), the words "in consultation with the Reserve Bank" shall be omitted;

(b) in sub-section (5), for the words "Governor of the Reserve Bank", the words "Central Government" shall be substituted.

14. For section 21B of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 21B.

"21B. In respect of the area falling within the jurisdiction of the local head office for which the Local Board has been constituted, a Local Board shall, subject to such general or special direction as the Central Board may give from time to time, exercise such powers and perform such duties and functions as may be entrusted or delegated to it by the Central Board."

Powers of Local Board.

15. In section 21C of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 21C.

"(2) The chairman or the managing director nominated by him shall be an *ex officio* member of every such Local Committee."

16. In section 22 of the principal Act, in sub-section (1),—

Amendment of section 22.

(a) in clause (d), the word "vice-chairman" shall be omitted;

(b) for clause (h), the following clause shall be substituted, namely:—

"(h) in the case of an elected director, he is not registered as a holder in his own right of unencumbered shares in the State Bank, either as sole holder or as first named holder when jointly held, of a nominal value of at least five thousand rupees."

17. In section 23 of the principal Act, in clause (b), the word "vice-chairman" shall be omitted.

Amendment of section 23.

18. In section 24 of the principal Act, —

Amendment of section 24.

(a) in sub-section (1), the word "vice-chairman" shall be omitted;

(b) in sub-section (3), the words "after consulting the Reserve Bank," shall be omitted.

19. After section 24 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 24A.

"24A. (1) Where the Central Government, on the recommendation of the Reserve Bank is satisfied that in the public interest or for preventing the affairs of the State Bank being conducted in a manner detrimental to the interest of the depositors or the State Bank or for securing the proper management of the State Bank, it is necessary so to do, the Central Government may, for reasons to be recorded in writing, by order, supersede the Central Board for a period not exceeding six months as may be specified in the order:

Supersession of Central Board in certain cases.

Provided that the period of supersession of the Central Board may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(2) On supersession of the Central Board under sub-section (1), the Central Government may, in consultation with the Reserve Bank, appoint an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy, for such period as it may determine.

(3) The Central Government may issue such directions to the Administrator as it may consider necessary and the Administrator shall be bound to follow such directions.

(4) Notwithstanding anything contained in this Act, upon making the order of supersession of the Central Board—

(a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Central Board, or by a resolution passed in the general meeting of the State Bank, shall, until the Central Board is reconstituted, be exercised and discharged by the Administrator appointed under sub-section (2):

Provided that the powers exercised by the Administrator shall be valid notwithstanding that such power is also exercisable by a resolution passed in the general meeting of the State Bank.

(5) The Central Government may, in consultation with the Reserve Bank, constitute a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the rules made under this Act.

(7) The salary and allowances of the Administrator and the members of the committee shall be such as may be specified by the rules made under this Act and be payable by the State Bank.

(8) On and before the expiration of two months before the expiry of the period of supersession of the Central Board, the Administrator of the State Bank shall call the general meeting of the State Bank to elect new directors and re-constitute the said Board.

(9) Notwithstanding anything contained in any other law for the time being in force or in any contract, no person shall be entitled to claim any compensation for the loss or termination of his office on supersession of the Central Board.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the re-constitution of the Central Board."

Amendment of
section 25.

20. In section 25 of the principal Act,—

(a) in sub-section (1), the word "vice-chairman" shall be omitted;

(b) in sub-section (2),—

(i) the word "vice-chairman" shall be omitted;

(ii) in clause (b), the words "in consultation with the Reserve Bank" shall be omitted.

21. Section 28 of the principal Act shall be omitted.

Omission of
section 28.

22. In section 29 of the principal Act, in sub-section (1),—

Amendment of
section 29.

(a) in clause (a), the word "and" shall be omitted;

(b) in clause (b),—

(i) the words "and the vice-chairman," shall be omitted;

(ii) at the end, the word "; and" shall be inserted;

(c) after clause (b), the following clause shall be inserted, namely:—

"(c) when authorised by the chairman, shall preside at the meetings of the Central Board in his absence."

23. In section 31 of the principal Act,—

Amendment of
section 31.

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The Central Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed; and the meeting of the Central Board may be held by participation of the directors of the Central Board through videoconferencing or such other electronic means, as may be prescribed, which are capable of recording and recognising the participation of the directors and the proceedings of such meetings are capable of being recorded and stored:

Provided that the Central Government may in consultation with the Reserve Bank, by notification in the Official Gazette, specify the matters which shall not be discussed in a meeting of the Central Board held through videoconferencing or such other electronic means.

(2) All questions at the meeting shall be decided by a majority of the votes of the directors present in the meeting or through videoconferencing or such other electronic means and in the case of equality of votes the chairman or, in his absence, the managing director authorised by the chairman shall have a second or casting vote."

(b) in sub-section (4), for the word "vice-chairman", the words "managing director authorised by the chairman" shall be substituted.

24. In section 31A of the principal Act, in sub-section (5), for the words "the vice-chairman, if he is a member of the Local Board", the words "the managing director authorised by the chairman" shall be substituted.

Amendment of
section 31A.

25. After section 38 of the principal Act, the following section shall be inserted, namely:—

Insertion of new
section 38A.

'38A. (1) Where, after the commencement of the State Bank of India (Amendment) Act, 2010, a dividend has been declared by the State Bank but which has not been paid to a shareholder or claimed by any shareholder entitled to it, within thirty days from the date of declaration, the State Bank shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid, or unclaimed, to a special account to be named, the "unpaid dividend account" maintained by it.

Transfer of
unpaid or
unclaimed
dividend.

Explanation.— In this sub-section, the expression "dividend which remains unpaid" means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(2) Where the whole or any part of any dividend, declared by the State Bank before the commencement of the State Bank of India (Amendment) Act, 2010, remains

unpaid at such commencement, the State Bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Any money transferred to the unpaid dividend account of the State Bank, in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the State Bank to the Investor Education and Protection Fund established under sub-section (1) of section 205C of the Companies Act, 1956 for being utilised for the purpose and in the manner specified in that section.

1 of 1956.

Amendment of
section 39.

26. In section 39 of the principal Act, for the word "December", the word "March" shall be substituted.

Amendment of
section 40.

27. In section 40 of the principal Act,—

(a) in sub-section (1), for the word "December", the word "March" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The balance sheet and the profit and loss account shall be signed by the chairman, managing directors and at least three other directors of the Central Board."

Amendment of
section 41.

28. In section 41 of the principal Act,—

(a) in sub-section (1), for the words "the Reserve Bank in consultation with the Central Government", the words "the State Bank with the previous approval of the Reserve Bank" shall be substituted;

(b) in sub-section (5), for the words "the Reserve Bank", the words "the State Bank with the previous approval of the Reserve Bank" shall be substituted.

Substitution of
new section for
section 42.

29. For section 42 of the principal Act, the following section shall be substituted, namely:—

Balance sheet,
etc., of State
Bank may be
discussed at
general
meeting.

"42. (1) An annual general meeting shall be held in each financial year at the Corporate Centre or at such other place in Mumbai other than the Corporate Centre or at such other place in India and at such time, as shall from time to time be specified by the Central Board and a general meeting other than an annual general meeting may be convened by the State Bank at any other time and at such place in India as shall from time to time be specified by the Central Board:

Provided that such annual general meeting shall be held before the expiry of six weeks from the date on which the balance sheet together with the profit and loss account and auditors' report, under sub-section (1) of section 40, is forwarded to the Central Government or to the Reserve Bank, whichever date is earlier.

(2) The shareholders present at an annual general meeting shall be entitled to discuss and adopt the balance sheet and the profit and loss account of the State Bank made up to the previous 31st day of March or the date specified under section 39, as the case may be, the report of the Central Board on the working and activities of the State Bank for the period covered by the accounts and the auditors' report on the balance sheet and accounts."

Amendment of
section 43.

30. In section 43 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The officers, advisers and employees of the State Bank shall individually or jointly or with other officers, advisers and employees in a Local Committee exercise such powers and perform such duties as may by general or special order, be entrusted or delegated to them by the Central Board or its executive committee."

31. In section 49 of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—

Amendment of
section 49.

"(d) the time and place of meeting of the Committee and the rules of procedure to be observed by it under sub-section (6) of section 24A;

(e) the salary and allowances of the Administrator and the members of the committee under sub-section (7) of section 24A."

32. In section 50 of the principal Act, in sub-section (2),—

Amendment of
section 50.

(i) after clause (a), the following clauses shall be inserted, namely:—

"(aa) the procedure for increasing issued capital by the issue of equity or preference shares under sub-section (2) and the manner of accepting money for issued capital, forfeiture and re-issue of shares under sub-section (5) of section 5;

(ab) the manner of nominating an individual by one individual under sub-section (1), the manner of nominating an individual by the joint holders under sub-section (2), the manner of varying or cancellation of nomination under sub-section (3), and the manner of nominating a minor under sub-section (4) of section 10A;"

(ii) in clause (b), for the words "floppies or diskettes", the words "floppies or diskettes or any other electronic form" shall be substituted.

33. The enactment specified in the Schedule is hereby amended to the extent and in the manner as given below:—

Amendment of
enactment.

THE SCHEDULE

(See section 33)

Short title
THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959 (38 of 1959)

In section 26, in sub-section (2A), the words "and thereafter until his successor shall have been duly appointed" shall be omitted.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/39-2011/Act-39-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 22nd September, 2010. Bhadra, 31, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 21st September, 2010, is hereby published for general information :-

THE COMPETITION (AMENDMENT) ACT, 2009

AN ACT

(Act No. 39 of 2010)

[21st September, 2010]

further to amend the Competition Act, 2002.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

1. (1) This Act may be called the Competition (Amendment) Act, 2009.
- (2) It shall be deemed to have come into force on the 14th day of October, 2009.
2. In section 66 of the Competition Act, 2002,-

- (a) In sub-section (1), the proviso and the *Explanation* thereto shall be omitted;
- (b) In sub-section (3),-

(i) for the words, brackets and figure "after the expiry of two years referred to in the proviso to sub-section (1)", the words, brackets and figures "on the commencement of the Competition (Amendment) Act, 2009" shall be substituted;

(ii) the following *Explanation* shall be inserted, namely:-

"Explanation.- For the removal of doubts, it is hereby declared that all cases referred to in this sub-section, sub-section (4) and sub-section (5) shall be deemed to include all applications made for the losses

Short title and commencement.

Amendment of section 66 of Act 12 of 2003.

or damages under section 12B of the Monopolies and Restrictive Trade Practices Act, 1969 as it stood before its repeal;

54 of 1969.

(c) in sub-section (4),—

(i) for the words, brackets and figure “on or before the expiry of two years referred to in the proviso to sub-section (1)”, the words, brackets and figures “immediately before the commencement of the Competition (Amendment) Act, 2009, shall, on such commencement” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that all the cases relating to the unfair trade practices pending, before the National Commission under this sub-section, on or before the date on which the Competition (Amendment) Bill, 2009 receives the assent of the President, shall, on and from that date, stand transferred to the Appellate Tribunal and be adjudicated by the Appellate Tribunal in accordance with the provisions of the repealed Act as if that Act had not been repealed.”;

(d) in sub-section (5), for the words, brackets and figure “after the expiry of two years referred to in the proviso to sub-section (1)”, the words, brackets and figures “on the commencement of the Competition (Amendment) Act, 2009” shall be substituted;

(e) in sub-section (7), the following proviso shall be inserted, namely:—

“Provided that all investigations or proceedings, relating to unfair trade practices pending before the National Commission, on or before the date on which the Competition (Amendment) Bill, 2009 receives the assent of the President shall, on and from that date, stand transferred to the Appellate Tribunal and the Appellate Tribunal may conduct or order for conduct of such investigation or proceedings in the manner as it deems fit.”.

Repeal and savings.

3. (1) The Competition (Amendment) Ordinance, 2009 is hereby repealed.

Ord. 6 of 2009.

(2) Notwithstanding such repeal, anything done or any action taken under the Competition Act, 2002, as amended by the said Ordinance, shall be deemed to have been done or taken under the said Act as amended by this Act.

12 of 2003.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/10-2011/Act-10-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 30th March, 2010. Chaitra, 9, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 29th March, 2010, is hereby published for general information :-

THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (AMENDMENT AND VALIDATION) ACT, 2010

AN ACT

(Act No. 10 of 2010)

[29th March, 2010]

Further to amend the Ancient Monuments And Archaeological Sites And Remains Act, 1958 and to make provision for validation of certain actions taken by the Central Government under the said Act.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Ancient Monuments And Archaeological Sites And Remains (Amendment And Validation) Act, 2010. Short title and commencement.

(2) Save as otherwise provided, it shall be deemed to have come into force (except section 3, 5, 7 and 8 to 11) on the 23rd day of January, 2010.

2. On and from the 16th day of June, 1992, in the Ancient Monuments And Archaeological Sites And Remains Act, 1958 (hereinafter referred to as the principal Act), in section 2, - Amendment of section 2.

(i) after clause (d), the following clauses shall be inserted and shall be deemed to have been inserted, namely:-

‘(da) “Authority” means the National Monuments Authority constituted under section 20F;

(db) "competent authority" means an officer not below the rank of Director of archaeology or Commissioner of archaeology of the Central or State Government or equivalent rank, specified, by notification in the Official Gazette, as the competent authority by the Central Government to perform functions under this Act;

Provided that the Central Government may, by notification in the Official Gazette, specify different competent authorities for the purpose of sections 20C, 20D and 20E;

(dc) "construction" means any erection of a structure or a building, including any addition or extension thereto either vertically or horizontally, but does not include any re-construction, repair and renovation of an existing structure or building, or, construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences, or, the construction and maintenance of works meant for providing supply of water for public, or, the construction or maintenance, extension, management for supply and distribution of electricity to the public or provision for similar facilities for public;

(ii) after clause (h), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

'(ha) "prohibited area" means any area specified or declared to be a prohibited area under section 20A;';

(iii) after clause (j), the following clauses shall be inserted and shall be deemed to have been inserted, namely:—

'(k) "re-construction" means any erection of a structure or building to its pre-existing structure, having the same horizontal and vertical limits;

(l) "regulated area" means any area specified or declared under section 20B;

(m) "repair and renovation" means alterations to a pre-existing structure or building, but shall not include construction or re-construction;'

Insertion of
new section
4A.

3. After section 4 of the principal Act, the following section shall be inserted, namely:—

Categorisation
and
classification
in respect of
ancient
monuments or
archaeological
sites and
remains
declared as of
national
importance
under sections
3 and 4.

"4A. (1) The Central Government shall, on the recommendation of the Authority, prescribe categories in respect of ancient monuments or archaeological sites and remains declared as of national importance under sections 3 and 4, and while prescribing such categories it shall have regard to the historical, archaeological and architectural value and such other factors as may be relevant for the purpose of such categorisation.

(2) The Central Government shall, on the recommendation of the Authority, classify all the ancient monuments or archaeological sites and remains declared as of national importance under sections 3 and 4, in accordance with the categories prescribed under sub-section (1) and thereafter make the same available to the public and exhibit the same on its website and also in such other manner as it may deem fit."

Insertion of
new section
20A.

4. On and from the 16th day of June, 1992, after section 20 of the principal Act, the following section shall be inserted and shall be deemed to have been inserted, namely:—

"PROHIBITED AND REGULATED AREAS

Declaration of
prohibited area
and carrying
out public work
or other works
in prohibited
area.

20A. Every area, beginning at the limit of the protected area or the protected monument, as the case may be, and extending to a distance of one hundred metres in all directions shall be the prohibited area in respect of such protected area or protected monument:

Provided that the Central Government may, on the recommendation of the Authority, by notification in the Official Gazette, specify an area more than one hundred

metres to be the prohibited area having regard to the classification of any protected monument or protected area, as the case may be, under section 4A.

(2) Save as otherwise provided in section 20C, no person, other than an archaeological officer, shall carry out any construction in any prohibited area.

(3) In a case where the Central Government or the Director-General, as the case may be, is satisfied that—

(a) it is necessary or expedient for carrying out such public work or any project essential to the public; or

(b) such other work or project, in its opinion, shall not have any substantial adverse impact on the preservation, safety, security of, or, access to, the monument or its immediate surrounding,

it or he may, notwithstanding anything contained in sub-section (2), in exceptional cases and having regard to the public interest, by order and for reasons to be recorded in writing, permit, such public work or project essential to the public or other constructions, to be carried out in a prohibited area:

Provided that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a prohibited area in respect of such protected monument, shall be deemed to be the prohibited area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted by the Central Government or the Director-General, as the case may be, for the construction within the prohibited area on the basis of the recommendation of the Expert Advisory Committee, shall be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times:

Provided further that nothing contained in the first proviso shall apply to any permission granted, subsequent to the completion of construction or re-construction of any building or structure in any prohibited area in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O. 1764, dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, or, without having obtained the recommendations of the Committee constituted in pursuance of the order of the Government of India number 24/22/2006-M, dated the 20th July, 2006 (subsequently referred to as the Expert Advisory Committee in orders dated the 27th August, 2008 and the 5th May, 2009)."

5. In section 20A of the principal Act (as so inserted by section 4 of this Act), after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of section 20A.

"(4) No permission, referred to in sub-section (3), including carrying out any public work or project essential to the public or other constructions, shall be granted in any prohibited area on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010 receives the assent of the President."

6. On and from the 16th day of June, 1992, after section 20A of the principal Act, the following section shall be inserted and shall be deemed to have been inserted, namely:—

Insertion of new section 20B.

"20B. Every area, beginning at the limit of prohibited area in respect of every ancient monument and archaeological site and remains, declared as of national importance under sections 3 and 4 and extending to a distance of two hundred metres in all directions shall be the regulated area in respect of every ancient monument and archaeological site and remains:

Declaration of regulated area in respect of every protected monument.

Provided that the Central Government may, by notification in the Official Gazette, specify an area more than two hundred metres to be the regulated area having regard

to the classification of any protected monument or protected area, as the case may be, under section 4A:

Provided further that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a regulated area in respect of such protected monument, shall be deemed to be the regulated area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted for construction in such regulated area shall, be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times.”.

7. After section 20B of the principal Act (as so inserted by section 6 of this Act) the following sections shall be inserted, namely:—

Insertion of new sections 20C, 20D, 20E, 20F, 20G, 20H, 20-I, 20J, 20K, 20L, 20M, 20N, 20-O, 20P and 20Q.

Application for repair or renovation in prohibited area, or construction or re-construction or repair or renovation in regulated area.

‘20C. (1) Any person, who owns any building or structure, which existed in a prohibited area before the 16th day of June, 1992, or, which had been subsequently constructed with the approval of the Director-General and desires to carry out any repair or renovation of such building or structure, may make an application to the competent authority for carrying out such repair or renovation, as the case may be.

(2) Any person, who owns or possesses any building or structure or land in any regulated area, and desires to carry out any construction or re-construction or repair or renovation of such building or structure on such land, as the case may be, may make an application to the competent authority for carrying out construction or re-construction or repair or renovation, as the case may be.

GRANT OF PERMISSION BY COMPETENT AUTHORITY

Grant of permission by competent authority within regulated area.

20D. (1) Every application for grant of permission under section 20C of this Act shall be made to the competent authority in such manner as may be prescribed.

(2) The competent authority shall, within fifteen days of the receipt of the application, forward the same to the Authority to consider and intimate impact of such construction (including the impact of large-scale development project, public project and project essential to the public) having regard to the heritage bye-laws relating to the concerned protected monument or protected area, as the case may be:

Provided that the Central Government may prescribe the category of applications in respect of which the permission may be granted under this sub-section and the application which shall be referred to the Authority for its recommendations.

(3) The Authority shall, within two months from the date of receipt of application under sub-section (2), intimate to the competent authority impact of such construction (including the impact of large-scale development project, public project and project essential to the public).

(4) The competent authority shall, within one month of the receipt of intimation from the Authority under sub-section (3), either grant permission or refuse the same as so recommended by the Authority.

(5) The recommendations of the Authority shall be final.

(6) In case the competent authority refuses to grant permission under this section, it shall, by order in writing, after giving an opportunity to the concerned person, intimate such refusal within three months from the date of receipt of the application to the applicant, the Central Government and the Authority.

(7) If the competent authority, after grant of the permission under sub-section (4) and during the carrying out of the repair or renovation work or re-construction of building or construction referred to in that sub-section, is of the opinion (on the basis of material in his possession or otherwise) that such repair or renovation work or reconstruction of building or construction is likely to have an adverse impact on the preservation, safety, security or access to the monument considerably, it may refer the same to the Authority for its recommendations and if so recommended, withdraw the permission granted under sub-section (4) if so required:

Provided that the competent authority may, in exceptional cases, with the approval of the Authority grant permission to the applicant referred to in sub-section (2) of section 20C until the heritage bye-laws have been prepared under sub-section (1) of section 20E and published under sub-section (7) of that section.

(8) The Central Government, or the Director-General, as the case may be, shall exhibit, on their website, all the permissions granted or refused under this Act.

20E. (1) The competent authority, in consultation with Indian National Trust for Arts and Cultural Heritage, being a trust registered under the Indian Trusts Act, 1882, or such other expert heritage bodies as may be notified by the Central Government, shall prepare heritage bye-laws in respect of each protected monument and protected area.

Heritage bye-laws.

(2) The heritage bye-laws referred to in sub-section (1) shall, in addition to such matters as may be prescribed, include matters relating to heritage controls such as elevations, facades, drainage systems, roads and service infrastructure (including electric poles, water and sewer pipelines).

(3) The Central Government shall, by rules, specify the manner of preparation of detailed site plans in respect of each protected area or protected monument or prohibited area or regulated area, the time within which such heritage bye-laws shall be prepared and particulars to be included in each such heritage bye-laws.

(4) The competent authority for the purpose of preparation of detailed site plans and heritage bye-laws may appoint such number of experts or consultants as it may deem fit.

(5) A copy of each of the heritage bye-laws prepared under sub-section (1) shall be forwarded to the Authority for its approval.

(6) A copy of the heritage bye-laws as approved by the Authority under sub-section (5) shall be laid before each House of Parliament.

(7) Each heritage bye-laws shall, be made available by the competent authority to the public, by exhibiting the same on its website and also in such other manner as it may deem fit, immediately after laying the same before each House of Parliament.

NATIONAL MONUMENTS AUTHORITY

20F. (1) The Central Government shall, by notification in the Official Gazette, constitute an Authority to be called as the National Monuments Authority.

Constitution of National Monuments Authority.

(2) The Authority shall consist of,—

(a) a Chairperson, on whole-time basis, to be appointed by the President, having proven experience and expertise in the fields of archaeology, country and town planning, architecture, heritage, conservation-architecture or law;

(b) such number of members not exceeding five whole-time members and five part-time members to be appointed, on the recommendation of the Selection Committee referred to in section 20G, by the Central Government, having proven experience and expertise in the fields of archaeology, country and town planning, architecture, heritage, conservation-architecture or law;

(c) the Director-General as member, *ex officio*.

(3) The tenure of the whole-time Chairperson or every whole-time member and every part-time member, of the Authority shall be three years from the date on which he assumes office as such and shall not be eligible for re-appointment:

Provided that, save as otherwise provided in clause (c) of sub-section (2), any person who has held any post in the Archaeological Survey of India or in the Ministry of Culture of the Government of India or a State Government or has not been found fit to be considered for being appointed to any such post shall, not be eligible to be appointed as the Chairperson or a member of the Authority:

Provided further that any person, who had either been granted a permission or licence or refused any such permission or refused grant of a licence or any person or any of his relative having any interest in a prohibited area or a regulated area shall not be eligible to be appointed as a Chairperson or member.

Explanation.—For the purposes of this section, “relative” means—

- (i) spouse of the Chairperson or member of the Authority;
- (ii) brother or sister of the Chairperson or member of the Authority;
- (iii) brother or sister of the spouse of the Chairperson or member of the Authority;
- (iv) brother or sister of either of the parents of the Chairperson or member of the Authority;
- (v) any lineal ascendant or descendant of the Chairperson or member of the Authority;
- (vi) any lineal ascendant or descendant of the spouse of the Chairperson or member of the Authority;
- (vii) spouse of the person referred to in clauses (ii) to (vi);

(4) An officer, not below the rank of Joint Secretary to the Government of India, shall be the Member Secretary of the Authority.

(5) The Central Government shall provide such number of officers and other employees as may be necessary for discharge of functions by the Authority under this Act.

Selection
Committee
for selection
of members
of Authority.

20G. (1) Every whole-time member and every part-time member of the Authority shall be selected by a Selection Committee consisting of the following persons, namely:—

- (a) Cabinet Secretary — Chairperson, *ex officio*;
- (b) Secretary in the Ministry of Culture — member, *ex officio*;
- (c) Secretary in the Ministry of Urban development — member, *ex officio*;
- (d) three experts, having proven experience and expertise in the fields of archaeology, architecture, heritage or conservation-architecture to be nominated by the Central Government.

(2) The Selection Committee referred to in sub-section (1) shall regulate its own procedure for the purposes of selecting whole-time members and part-time members of the Authority.

Salary,
allowances and
meetings of
Authority.

20H. (1) The salaries and allowances payable to the whole-time Chairperson and whole-time members, and the other terms and conditions of their service or fees or allowances payable to the part-time members, of the Authority shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the whole-time Chairperson and whole-time members shall be varied to their disadvantage after their appointment.

(2) The Authority shall regulate its own procedure for the purposes of holding its meetings (including quorum of such meetings) and granting permissions under this Act.

(3) All the decisions of the Authority shall be published in such manner as it may decide and also on its own website and on the website of the Central Government.

20-I. (1) The Authority shall exercise or discharge the following powers or functions, namely:—

Functions and powers of Authority.

(a) make recommendations to the Central Government for grading and classifying protected monuments and protected areas declared as of national importance under sections 3 and 4, before the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010;

(b) make recommendations to the Central Government for grading and classifying protected monuments and protected areas which may be declared after the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010, as of national importance under section 4;

(c) oversee the working of the competent authorities;

(d) to suggest measures for implementation of the provisions of this Act;

(e) to consider the impact of large-scale developmental projects, including public projects and projects essential to the public which may be proposed in the regulated areas and make recommendations in respect thereof to the competent authority;

(f) to make recommendations to the competent authority for grant of permission.

(2) The Authority shall, for the purpose of discharging functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

20J. (1) Notwithstanding anything contained in sub-section (3) of section 20F, the President in the case of the Chairperson and the Central Government in the case of whole-time member and part-time member may, by order, remove from office, the Chairperson or any such member of the Authority, if he —

Removal of Chairperson and members.

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as Chairperson or member; or

(d) has acquired such financial or other interests as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or any member of the Authority shall not be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

20K. On ceasing to hold office, the Chairperson or whole-time member of the Authority, as the case may be, shall, subject to the provisions of this Act, be ineligible, for a period of five years from the date on which they cease to hold office, for further employment (including as consultant or expert or otherwise) in any institution, agency

Restriction on future employment by Chairperson and members.

or organisation of any nature mainly dealing with archaeology, country and town planning, architecture, heritage and conservation -architecture or whose matters had been before the Chairperson or such member.

Power of
Central
Government
to issue
directions to
Authority.

20L. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the discharge of its functions under this Act, be bound by such directions on question of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Power of
Central
Government to
issue directions
to competent
authority.

20M. Without prejudice to the foregoing provisions of this Act, the competent authority shall, in exercise of its powers or the discharge of its functions under this Act, be bound by such directions, as the Central Government may give in writing to it from time to time.

Power of
Central
Government
to supersede
Authority.

20N. (1) If, at any time the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do;

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and all other whole-time members and part-time members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other whole-time members and part-time members and in such case any person who had vacated his office under

clause (a) of sub-section (2) shall not be deemed to be disqualified, subject to the provisions of sub-section (3) of section 20F for reappointment for the remaining period.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

20-O. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar of jurisdiction of civil court.

20P. (1) The Authority shall prepare once in every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving full description of all the activities of the Authority for the previous year.

Annual report.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

20Q. Where the Central Government considers it expedient so to do, it may, by order in writing call upon the Authority or the competent authority, as the case may be, to furnish in writing such information, in such form and manner as may be prescribed, relating to its affairs as the Central Government may require."

Power to call for information.

8. In section 30 of the principal Act,—

Amendment of section 30.

(a) in sub-section (1),—

(i) for the words "imprisonment which may extend to three months", the words "imprisonment which may extend to two years" shall be substituted;

(ii) for the words "fine which may extend to five thousand rupees", the words "fine which may extend to one lakh rupees" shall be substituted;

(b) in sub-section (2), for the words "fine which may extend to five thousand rupees", the words "imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both" shall be substituted.

9. After section 30 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 30A, 30B and 30C.

"30A. Whoever raises, on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, any construction in the prohibited area, shall be punishable with imprisonment not exceeding two years or with fine which may extend to one lakh rupees or with both.

Punishment for construction, etc., in prohibited area.

30B. Whoever raises, on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, any construction in the regulated area without the previous permission of the competent authority or in contravention of the permission granted by the competent authority, shall be punishable with imprisonment not exceeding two years or with fine which may extend to one lakh rupees or with both.

Punishment for construction, etc., in regulated area.

30C. If any officer of the Central Government enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any construction or re-construction takes place in a prohibited area or regulated area, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

Offences by officers of Government.

Insertion of
new sections
35A and 35B.

Obligation to
survey the
protected
prohibited
area and
regulated
areas.

Identification
of un-
authorised
constructions
on or after
16th June,
1992.

Amendment of
section 38.

Validation of
action taken,
etc., under
notification
No.S.O.1764,
dated 16th June,
1992.

10. After section 35 of the principal Act, the following sections shall be inserted, namely:—

“35A. (1) The Director-General shall, within such time as may be specified by the Central Government, conduct a survey or cause survey to be conducted in respect of all prohibited areas and regulated areas for the purpose of detailed site plans.

(2) A report in respect of such survey referred to in sub-section (1) shall be forwarded to the Central Government and to the Authority.

35B. (1) The Director-General shall, within such time as may be specified by the Central Government, identify or cause to be identified, all constructions (of whatever nature) made on and after the 16th day of June, 1992 in all prohibited areas and regulated areas and, thereafter, submit from time to time a report in respect thereof to the Central Government.

(2) The Director-General shall, for the purposes of sub section (1), have the power to call for information from the local bodies and other authorities.”

11. In section 38 of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—

“(ca) the categories of ancient monuments or archaeological sites and remains, declared as of national importance, under sub-section (1) of section 4A;

(cb) the manner of making application for grant of permission under sub-section (1) of section 20D;

(cc) the category of applications in respect of which the permission may be granted and applications which shall be referred to the Authority for its recommendation, under sub-section (2) of section 20D;

(cd) the other matters including heritage controls such as elevations, facades, drainage systems, roads and service infrastructure (including electric poles, water and sewer pipelines) under sub-section (2) of section 20E;

(ce) the manner of preparation of detailed site plans in respect of each prohibited area and regulated area and the time within which such heritage bye-laws shall be prepared and particulars to be included in each such heritage bye-laws under sub-section (3) of section 20E;

(cf) salaries and allowances payable to, and the other terms and conditions of service of, the whole-time Chairperson and whole-time members, or fees or allowances payable to the part-time members, of the Authority under sub-section (1) of section 20H;

(cg) the form in which and time at which the Authority shall prepare an annual report giving full description of its activities for the previous year under section 20P;

(ch) the form and manner in which the Authority and competent authority shall furnish information to the Central Government under section 20Q;”

12. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) any thing done or purported to be done or any action taken or purported to be taken by the Central Government, except as provided in the second proviso to sub-section (3) of section 20A, immediately before the commencement of this Act, in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O.1764, dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, shall be deemed to be and deemed to have always been done or taken validly and in accordance with law at all material times [except as provided in the second proviso to sub-section (3) of section 20A] and no action taken or thing done

(including any order made, agreement entered into, or notification issued for constituting any Expert Advisory Committee) in connection with any permission granted or licence issued for any construction in a prohibited area or a regulated area in respect of a protected monument, shall be deemed to be invalid or ever to have become invalid except as provided in the second proviso to sub-section (3) of section 20A merely on the ground that the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or the rules, orders or notifications issued thereunder did not contain any provision for constitution of an Expert Advisory Committee or Advisory Committee, as the case may be;

24 of 1958.

(b) no suit, claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for any permission or licence granted by the Central Government or the Director-General under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or any rule, order or notification made thereunder for carrying out any repair, renovation or construction work or for undertaking any public work or public project before the commencement of this Act;

24 of 1958.

(c) no claim or challenge shall be made in or entertained by any court, tribunal or other authority solely on the ground that the Central Government or the Director-General did not take into consideration any of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, as amended by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010, in granting any permission or licence for the purpose of carrying out any mining or repair, renovation or construction work in a prohibited area or a regulated area at any time between the 16th day of June, 1992 and the date of commencement of this Act.

24 of 1958.

Ord. 1 of
2010.

13. (1) The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Ordinance, 2010 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,

Secretary to Government.



The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/26-2011/Act-26-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 23rd August, 2010. Bhadra, 1, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 20th August, 2010, is hereby published for general information :-

THE SECURITIES AND INSURANCE LAWS (AMENDMENT AND VALIDATION) ACT, 2010

AN ACT

(Act No. 26 of 2010)

[20th August, 2010]

further to amend the Reserve Bank OF India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Securities And Insurance Laws (Amendment and Validation) Act, 2010. Short title and commencement.

- (2) It shall be deemed to have come into force on the 18th day of June, 2010.

April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

Repeal and savings.

7. (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 is hereby repealed.

Ord. 3 of 2010.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 or the Insurance Act, 1938 or the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

2 of 1934.
4 of 1938.
42 of 1956.
15 of 1992.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.

Government Central Press, Gandhinagar



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/19-2011/Act-19-10/E:- The following Act of Parliament is republished for general information :-

Government of India
Ministry of Law and Justice
Legislative Department

New Delhi, the 2nd June, 2010. Jyaishta 12, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 2nd June, 2010, is hereby published for general information :-

THE NATIONAL GREEN TRIBUNAL ACT, 2010

AN ACT

(Act No. 19 of 2010)

[2nd June, 2010]

To provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto..

AND WHEREAS India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment;

AND WHEREAS decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the State to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environment damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution;

AND WHEREAS it is considered expedient to implement the decisions taken at the aforesaid conferences and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and
commencement.

1. (1) This Act may be called the National Green Tribunal Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “accident” means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance or equipment, or plant, or vehicle resulting in continuous or intermittent or repeated exposure to death, of, or injury to, any person or damage to any property or environment but does not include an accident by reason only of war or civil disturbance;

(b) “Chairperson” means the Chairperson of the National Green Tribunal;

(c) “environment” includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(d) “Expert Member” means a member of the Tribunal who, is appointed as such, and holds qualifications specified in sub-section (2) of section 5, and, is not a Judicial Member;

(e) “handling”, in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

(f) “hazardous substance” means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986, and exceeding such quantity as specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991;

(g) “injury” includes permanent, partial or total disablement or sickness resulting out of an accident;

(h) “Judicial Member” means a member of the Tribunal who is qualified to be appointed as such under sub-section (1) of section 5 and includes the Chairperson;

(i) “notification” means a notification published in the Official Gazette;

(j) “person” includes—

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) trustee of a trust,

(vii) a local authority, and

(viii) every artificial juridical person, not falling within any of the preceding sub-clauses;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Schedule" means Schedules I, II and III appended to this Act;

(m) "substantial question relating to environment" shall include an instance where,—

(i) there is a direct violation of a specific statutory environmental obligation by a person by which,—

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

(n) "Tribunal" means the National Green Tribunal established under section 3;

(o) "workman" has the meaning assigned to it in the Workmen's Compensation Act, 1923.

8 of 1923.

6 of 1974.

36 of 1977.

69 of 1980.

14 of 1981.

29 of 1986.

6 of 1991.

18 of 2003.

(2) The words and expressions used in this Act but not defined herein and defined in the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1977, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability Insurance Act, 1991 and the Biological Diversity Act, 2002 and other Acts relating to environment shall have the meaning, respectively, assigned to them in those Acts.

CHAPTER II

ESTABLISHMENT OF THE TRIBUNAL

3. The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

Establishment
of Tribunal.

4. (1) The Tribunal shall consist of—

(a) a full time Chairperson;

(b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;

(c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.

Composition
of Tribunal.

(2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal including—

(a) the rules as to the persons who shall be entitled to appear before the Tribunal;

(b) the rules as to the procedure for hearing applications and appeals and other matters [including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the applications and appeals;

(c) the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals:

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.

Qualifications
for
appointment
of
Chairperson,
Judicial
Member and
Expert
Member.

5. (1) A person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court:

Provided that a person who is or has been a Judge of the High Court shall also be qualified to be appointed as a Judicial Member.

(2) A person shall not be qualified for appointment as an Expert Member, unless he,—

(a) has a degree in Master of Science (in physical sciences or life sciences) with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management, biological diversity management and forest conservation) in a reputed National level institution; or

(b) has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.

(3) The Chairperson, Judicial Member and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert Members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956.

1 of 1956.

Appointment
of
Chairperson,
Judicial
Member and
Expert
Member.

6. (1) Subject to the provisions of section 5, the Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government.

(2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

7. The Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment:

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of seventy years:

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that no Expert Member shall hold office after he has attained the age of sixty-five years.

8. The Chairperson, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

9. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall be varied to their disadvantage after their appointment.

10. (1) The Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson or Judicial Member of the Tribunal, who,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by the Judge of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

(5) The Expert Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section (1) and in accordance with the procedure as may be notified by the Central Government:

Provided that the Expert Member shall not be removed unless he has been given an opportunity of being heard in the matter.

11. In the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal, by reason of his death, resignation or otherwise, such Judicial Member of the Tribunal as the Central Government may, by notification, authorise in this behalf, shall act as the Chairperson until the date on which a new Chairperson is appointed in accordance with the provisions of this Act.

Term of office and other conditions of service of Chairperson, Judicial Member and Expert Member.

Resignation.

Salaries, allowances and other terms and conditions of service.

Removal and suspension of Chairperson, Judicial Member and Expert Member.

To act as Chairperson of Tribunal or to discharge his functions in certain circumstances.

Staff of
Tribunal.

12. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions.

(2) The recruitment of the officers and other employees of the Tribunal shall be made by the Chairperson in such manner as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(4) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

Financial and
administrative
powers of
Chairperson.

13. The Chairperson of the Tribunal shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:

Provided that the Chairperson may delegate such of his financial and administrative powers, as he may think fit, to any Judicial Member or Expert Member or officer of the Tribunal subject to the condition that the Member or such officer, while exercising such delegated power, continues to act under the direction, control and supervision of the Chairperson.

CHAPTER III

JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL

Tribunal to
settle disputes.

14. (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

Relief,
compensation
and
restitution.

15. (1) The Tribunal may, by an order, provide,—

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas,

as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991.

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

16. Any person aggrieved by,—

Tribunal to have appellate jurisdiction.

6 of 1974.

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974.

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974.

(c) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974;

36 of 1977.

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977;

69 of 1980.

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980;

14 of 1981.

(f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981;

29 of 1986.

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986;

29 of 1986.

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986;

22 of 1986.

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986;

18 of 2003.

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002,

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

17. (1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.

Liability to pay relief or compensation in certain cases.

(2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be

attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.

(3) The Tribunal shall, in case of an accident, apply the principle of no fault.

Application
or appeal to
Tribunal.

18. (1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.

(2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by—

- (a) the person, who has sustained the injury; or
- (b) the owner of the property to which the damage has been caused; or
- (c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or
- (d) any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or
- (e) any person aggrieved, including any representative body or organisation; or
- (f) the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 or any other law for the time being in force:

29 of 1986.

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application:

Provided further that the person, the owner, the legal representative, agent, representative body or organisation shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organisation have preferred an appeal under section 16.

(3) The application, or as the case may be, the appeal filed before the Tribunal under this Act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of filing of the application, or as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

Procedure and
powers of
Tribunal.

19. (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

5 of 1908.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

1 of 1872.

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;

1 of 1872.

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding it *ex parte*;(h) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(k) any other matter which may be prescribed.

45 of 1860.
2 of 1974.

(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

20. The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

Tribunal to
apply certain
principles.

21. The decision of the Tribunal by majority of Members shall be binding:

Provided that if there is a difference of opinion among the Members hearing an application or appeal, and the opinion is equally divided, the Chairperson shall hear (if he has not heard earlier such application or appeal) such application or appeal and decide:

Decision to
be taken by
majority.

Provided further that where the Chairperson himself has heard such application or appeal alongwith other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally divided, he shall refer the matter to other Members of the Tribunal who shall hear such application or appeal and decide.

5 of 1908.

22. Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908:

Appeal to
Supreme
Court.

Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

23. (1) While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.

Cost.

(2) Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or in part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.

6 of 1991.

24. (1) Where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 for being credited to the Environmental Relief Fund established under that section.

Deposit of
amount
payable for
damage to
environment.

(2) The amount of compensation or relief credited to the Environmental Relief Fund under sub-section (1), may, notwithstanding anything contained in the Public Liability Insurance Act, 1991, be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed. 6 of 1991.

Execution of
award or order
or decision of
Tribunal.

25. (1) An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.

(3) Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal, fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under this Act or any other law for the time being in force, shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

CHAPTER IV

PENALTY

Penalty for
failure to
comply with
orders of
Tribunal.

26. (1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code. 2 of 1974.

Offences by
companies.

27. (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

28. (1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Offences by
Government
Department.

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER V

MISCELLANEOUS

29. (1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

Bar of
jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court.

30. (1) No court shall take cognizance of any offence under this Act except on a complaint made by—

Cognizance of
offences.

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in such manner as may be prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

(2) No court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under this Act.

31. The Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members and
staff of
Tribunal to be
public servants.

32. (1) No suit or other legal proceeding shall lie against the employees of the Central Government or a State Government or any statutory authority, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of
action taken in
good faith.

(2) No suit, prosecution or other legal proceeding shall lie against the Chairperson or, Judicial Member or Expert Member of the Tribunal or any other person authorised by the Chairperson or Judicial Member or the Expert Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

33. The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have
overriding
effect.

34. (1) The Central Government may, by notification, amend the Schedule I by including therein any other Act, enacted by Parliament having regard to the objective of environmental protection and conservation of natural resources, or omitting therefrom any Act already specified therein and on the date of publication of such notification, such Act shall be deemed to be included in or, as the case may be, omitted from the Schedule I.

Power to
amend
Schedule I.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Power to
make rules.

35. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) rules as to the persons who shall be entitled to appear before the Tribunal under clause (a) of sub-section (4) of section 4;

(b) the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals under clause (b) of sub-section (4) of section 4;

(c) the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals under clause (c) of sub-section (4) of section 4;

(d) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;

(e) the selection committee and the manner of appointment of the Judicial Member and Expert Member of the Tribunal under sub-section (3) of section 6;

(f) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9;

(g) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 10;

(h) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (4) of that section;

(i) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 13;

(j) the form of application or appeal, the particulars which it shall contain and the documents to be accompanied by and the fees payable under sub-section (1) of section 18;

(k) any such matter in respect of which the Tribunal shall have powers of a civil court under clause (k) of sub-section (4) of section 19;

(l) the manner and the purposes for which the amount of compensation or relief credited to the Environment Relief Fund shall be utilised under sub-section (2) of section 24;

(m) the manner of giving notice to make a complaint under clause (b) of sub-section (1) of section 30;

(n) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. The enactments specified in the Schedule III to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Tribunal.

Amendment
of certain
enactments.

37. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

27 of 1995.
22 of 1997.

38. (1) The National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 are hereby repealed (hereinafter referred to as the repealed Act).

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

22 of 1997.

(3) The National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, shall, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, stand dissolved.

22 of 1997.

(4) On the dissolution of the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, the persons appointed as the Chairperson, Vice-chairperson and every other person appointed as Member of the said National Environment Appellate Authority and holding office as such immediately before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall vacate their respective offices and no such Chairperson, Vice-chairperson and every other person appointed as Member shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

22 of 1997.

(5) All cases pending before the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 on or before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall, on such establishment, stand transferred to the said National Green Tribunal and the National Green Tribunal shall dispose of such cases as if they were cases filed under that Act.

(6) The officers or other employees who have been, immediately before the dissolution of the National Environment Appellate Authority appointed on deputation basis to the National Environment Appellate Authority, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be.

(7) On the dissolution of the National Environment Appellate Authority, the officers and other employees appointed on contract basis under the National Environment Appellate Authority and holding office as such immediately before such dissolution, shall vacate their respective offices and such officers and other employees shall be entitled to claim compensation for three months' pay and allowances or pay and allowances for the

remaining period of service, whichever is less, for the premature termination of term of their office under their contract of service.

(8) The mention of the particular matters referred to in sub-sections (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

SCHEDULE I

[See sections 14(I), 15(I), 17(I)(a), 17(2), 19(4) (j) and 34(I)]

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002.

SCHEDULE II

[See sections 15(4) and 17(1)]

HEADS UNDER WHICH COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED

- (a) Death;
- (b) Permanent, temporary, total or partial disability or other injury or sickness;
- (c) Loss of wages due to total or partial disability or permanent or temporary disability;
- (d) Medical expenses incurred for treatment of injuries or sickness;
- (e) Damages to private property;
- (f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;
- (g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;
- (h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;
- (i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;
- (j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;
- (k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;
- (l) Loss and destruction of any property other than private property;
- (m) Loss of business or employment or both;
- (n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

SCHEDULE III
(See section 36)

AMENDMENT TO CERTAIN ENACTMENTS

PART I

AMENDMENT TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974
(6 OF 1974)

After section 33A, the following section shall be inserted, namely:—

“33B. Any person aggrieved by,—

- (a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or
- (b) an order passed by the State Government under section 29, on or after the commencement of the National Green Tribunal Act, 2010; or
- (c) directions issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2010,

may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”

Insertion of
new section
33B.

Appeal to
National Green
Tribunal.

PART II

AMENDMENTS TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977
(36 OF 1977)

1. In section 13, in sub-section (4), for the words “shall be final”, the words, figures and letters “shall, if no appeal has been filed under section 13A, be final” shall be substituted.

2. After section 13, the following section shall be inserted, namely:—

“13A. Any person aggrieved, by an order or decision of the appellate authority made under section 13, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”

Amendment of
section 13.

Insertion of
new section
13A.

Appeal to
National
Green
Tribunal.

PART III

AMENDMENT TO THE FOREST (CONSERVATION) ACT, 1980
(69 OF 1980)

After section 2, the following section shall be inserted, namely:—

“2A. Any person aggrieved, by an order or decision of the State Government or other authority made under section 2, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”

Insertion of
new section
2A.

Appeal to
National
Green
Tribunal.

PART IV

AMENDMENT TO THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

(14 OF 1981)

Insertion of
new section
31B.

After section 31A, the following section shall be inserted, namely:—

Appeal to
National
Green
Tribunal.

“31B. Any person aggrieved by an order or decision of the Appellate Authority under section 31, made on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”

PART V

AMENDMENT TO THE ENVIRONMENT (PROTECTION) ACT, 1986

(29 OF 1986)

Insertion of
new section
5A.

After section 5, the following section shall be inserted, namely:—

Appeal to
National Green
Tribunal.

“5A. Any person aggrieved by any directions issued under section 5, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”

PART VI

AMENDMENTS TO THE BIOLOGICAL DIVERSITY ACT, 2002

(18 OF 2003)

Amendment
of section 52.

1. In section 52, after the proviso, the following provisos shall be inserted, namely:—

“Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010:

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010, shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act, 2010.”

Insertion of
new section
52A.

2. After section 52, the following section shall be inserted, namely:—

Appeal to
National Green
Tribunal.

“52A. Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.”

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,
Secretary to Government.

Government Central Press, Gandhinagar



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/20-2011/Act-20-10/E:- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 16th August, 2010. Sravana, 25, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 16th August, 2010, is hereby published for general information :-

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS (AMENDMENT) ACT, 2010

AN ACT

(Act No. 20 of 2010)

[16th August, 2010]

further to amend the National Commission for Minority Educational Institutions Act, 2004.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the National Commission for Minority Educational Institutions (Amendment) Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
section 2.

2. In section 2 of the National Commission for Minority Educational Institutions Act, 2004 (hereinafter referred to as the principal Act),—

2 of 2005.

(i) clause (b) shall be omitted;

(ii) for clause (g), the following clause shall be substituted, namely:—

'(g) "Minority Educational Institution" means a college or an educational institution established and administered by a minority or minorities;'

Amendment of
section 3.

3. In section 3 of the principal Act, in sub-section (2), for the words "two members", the words "three members" shall be substituted.

Amendment of
section 10.

4. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose."

Amendment of
section 12B.

5. In section 12B of the principal Act, in sub-section (4), the words "and in consultation with the State Government" shall be omitted.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,
Secretary to Government.

Government Central Press, Gandhinagar



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 2nd December, 2011.

No. RPB/38-2011/Act.-38-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22nd September, 2010, Bhadra 31, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 21st September, 2010, is hereby published for general information:-

THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

AN ACT

(Act No. 38 of 2010)

[21st September, 2010]

to provide for civil liability for nuclear damage and prompt compensation to the victims of a nuclear incident through a no-fault liability regime channeling Liability to the operator, appointment of Claims Commissioner, establishment of Nuclear Damage Claims Commission and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Civil Liability for Nuclear Damage Act, 2010.

(2) It extends to the whole of India.

(3) It also applies to nuclear damage suffered--

(a) in or over the maritime areas beyond the territorial waters of India;

Short title
extent,
application
and
commencement.

(b) in or over the exclusive economic zone of India as referred to in section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976;

80 of 1976.

(c) on board or by a ship registered in India under section 22 of the Merchant Shipping Act, 1958 or under any other law for the time being in force;

44 of 1958.

(d) on board or by an aircraft registered in India under clause (d) of sub-section (2) of section 5 of the Aircraft Act, 1934 or under any other law for the time being in force;

22 of 1934.

(e) on or by an artificial island, installation or structure under the jurisdiction of India.

(4) It applies only to the nuclear installation owned or controlled by the Central Government either by itself or through any authority or corporation established by it or a Government company.

Explanation.—For the purposes of this sub-section, "Government company" shall have the same meaning as assigned to it in clause (bb) of sub-section (1) of section 2 of the Atomic Energy Act, 1962.

33 of 1962.

(5) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Chairperson" means the Chairperson of the Commission appointed under sub-section (1) of section 20;

(b) "Claims Commissioner" means the Claims Commissioner appointed under sub-section (2) of section 9;

(c) "Commission" means the Nuclear Damage Claims Commission established under section 19;

(d) "environment" shall have the same meaning as assigned to it in clause (a) of section 2 of the Environment (Protection) Act, 1986;

29 of 1986

(e) "Member" means a Member of the Commission appointed under sub-section (1) of section 20;

(f) "notification" means a notification published in the Official Gazette and the term "notify" shall be construed accordingly;

(g) "nuclear damage" means—

(i) loss of life or personal injury (including immediate and long term health impact) to a person; or

(ii) loss of, or damage to, property,

caused by or arising out of a nuclear incident, and includes each of the following to the extent notified by the Central Government;

(iii) any economic loss, arising from the loss or damage referred to in sub-clauses (i) or (ii) and not included in the claims made under those sub-clauses, if incurred by a person entitled to claim such loss or damage;

(iv) costs of measures of reinstatement of impaired environment caused by a nuclear incident, unless such impairment is insignificant, if such measures are actually taken or to be taken and not included in the claims made under sub-clause (ii);

(v) loss of income derived from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment caused by a nuclear incident, and not included in the claims under sub-clause (ii);

(vi) the costs of preventive measures, and further loss or damage caused by such measures;

(3) Where several nuclear installations of one and the same operator are involved in a nuclear incident, such operator shall, in respect of each such nuclear installation, be liable to the extent of liability specified under sub-section (2) of section 6.

(4) The liability of the operator of the nuclear installation shall be strict and shall be based on the principle of no-fault liability.

Explanation.— For the purposes of this section,—

(a) where nuclear damage is caused by a nuclear incident occurring in a nuclear installation on account of temporary storage of material-in-transit in such installation, the person responsible for transit of such material shall be deemed to be the operator;

(b) where a nuclear damage is caused as a result of nuclear incident during the transportation of nuclear material, the consignor shall be deemed to be the operator;

(c) where any written agreement has been entered into between the consignor and the consignee or, as the case may be, the consignor and the carrier of nuclear material, the person liable for any nuclear damage under such agreement shall be deemed to be the operator;

(d) where both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or, jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent it is not separable from the nuclear damage, be deemed to be a nuclear damage caused by such nuclear incident.

5. (1) An operator shall not be liable for any nuclear damage where such damage is caused by a nuclear incident directly due to—

Operator not liable in certain circumstances.

(i) a grave natural disaster of an exceptional character; or

(ii) an act of armed conflict, hostility, civil war, insurrection or terrorism.

(2) An operator shall not be liable for any nuclear damage caused to—

(i) the nuclear installation itself and any other nuclear installation including a nuclear installation under construction, on the site where such installation is located; and

(ii) to any property on the same site which is used or to be used in connection with any such installation; or

(iii) to the means of transport upon which the nuclear material involved was carried at the time of nuclear incident:

Provided that any compensation liable to be paid by an operator for a nuclear damage shall not have the effect of reducing the amount of his liability in respect of any other claim for damage under any other law for the time being in force.

(3) Where any nuclear damage is suffered by a person on account of his own negligence or from his own acts of commission or omission, the operator shall not be liable to such person.

6. (1) The maximum amount of liability in respect of each nuclear incident shall be the rupee equivalent of three hundred million Special Drawing Rights or such higher amount as the Central Government may specify by notification:

Limits of liability.

Provided that the Central Government may take additional measures, where necessary, if the compensation to be awarded under this Act exceeds the amount specified under this sub-section.

(2) The liability of an operator for each nuclear incident shall be—

(a) in respect of nuclear reactors having thermal power equal to or above ten MW, rupees one thousand five hundred crores;

(b) in respect of spent fuel reprocessing plants, rupees three hundred crores;

(c) in respect of the research reactors having thermal power below ten MW, fuel cycle facilities other than spent fuel reprocessing plants and transportation of nuclear materials, rupees one hundred crores:

Provided that the Central Government may review the amount of operator's liability from time to time and specify, by notification, a higher amount under this sub-section:

Provided further that the amount of liability shall not include any interest or cost of proceedings.

Liability of
Central
Government.

7. (1) The Central Government shall be liable for nuclear damage in respect of a nuclear incident, —

(a) where the liability exceeds the amount of liability of an operator specified under sub-section (2) of section 6, to the extent such liability exceeds such liability of the operator;

(b) occurring in a nuclear installation owned by it; and

(c) occurring on account of causes specified in clauses (i) and (ii) of sub-section (1) of section 5:

Provided that the Central Government may, by notification, assume full liability for a nuclear installation not operated by it if it is of the opinion that it is necessary in public interest.

(2) For the purpose of meeting part of its liability under clause (a) or clause (c) of sub-section (1), the Central Government may establish a fund to be called the Nuclear Liability Fund by charging such amount of levy from the operators, in such manner, as may be prescribed.

Operator to
maintain
insurance or
financial
securities.

8. (1) The operator shall, before he begins operation of his nuclear installation, take out insurance policy or such other financial security or combination of both, covering his liability under sub-section (2) of section 6, in such manner as may be prescribed.

(2) The operator shall from time to time renew the insurance policy or other financial security referred to in sub-section (1), before the expiry of the period of validity thereof.

(3) The provisions of sub-sections (1) and (2) shall not apply to a nuclear installation owned by the Central Government.

Explanation.—For the purposes of this section, “financial security” means a contract of indemnity or guarantee, or shares or bonds or such instrument as may be prescribed or any combination thereof.

CHAPTER III

CLAIMS COMMISSIONER

Compensation
for nuclear
damage and
its
adjudication.

9. (1) Whoever suffers nuclear damage shall be entitled to claim compensation in accordance with the provisions of this Act.

(2) For the purposes of adjudicating upon claims for compensation in respect of nuclear damage, the Central Government shall, by notification, appoint one or more Claims Commissioners for such area, as may be specified in that notification.

Qualifications
for
appointment
as Claims
Commissioner.

10. A person shall not be qualified for appointment as a Claims Commissioner unless he—

(a) is, or has been, a District Judge; or

(b) in the service of the Central Government and has held the post not below the rank of Additional Secretary to the Government of India or any other equivalent post in the Central Government.

Salary,
allowances
and other
terms and
conditions of
service of
Claims
Commissioner.

11. The salary and allowances payable to and other terms and conditions of service of Claims Commissioner shall be such as may be prescribed.

possesses special knowledge in law relating to nuclear liability arising out of nuclear incident; or

(b) has been a Claims Commissioner for five years.

21. The Chairperson or a Member, as the case may be, shall hold office as such for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of three years:

Term of office.

Provided that no person shall hold office as such Chairperson or Member after he has attained the age of sixty-seven years.

22. The salary and allowances payable to and other terms and conditions of service, including pension, gratuity and other retirement benefits, of the Chairperson and other Members shall be such as may be prescribed:

Salary, allowances and other terms and conditions of service of Chairperson and Members.

Provided that no salary, allowances and other terms and conditions of service of the Chairperson or other Members shall be varied to his disadvantage after his appointment.

23. If, for reasons other than temporary absence, any vacancy occurs in the office of the Chairperson or Member, as the case may be, the Central Government shall appoint another person in accordance with the provisions of this Act to fill such vacancy and the proceedings may be continued before the Commission from the stage at which it was, before the vacancy is filled.

Filling up of vacancies.

24. (1) The Chairperson or a Member may, by a notice in writing under his hand addressed to the Central Government, resign his office:

Resignation and removal.

Provided that the Chairperson or the Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(2) The Central Government shall remove from office the Chairperson or a Member who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no Member shall be removed under clause (d) or clause (e) unless he has been given an opportunity of being heard in the matter.

25. A person who, immediately before the date of assuming office as a Chairperson or a Member, was in service of the Government, shall be deemed to have retired from service on the date on which he enters upon office as such, but his subsequent service as the Chairperson or a Member shall be reckoned as continuing approved service counting for pension in service to which he belonged.

Chairperson or Member deemed to retire from service.

26. If a person who, immediately before the date of assuming office as the Chairperson or a Member was in receipt of or being eligible so to do, has opted to draw, a pension, other than a disability or wound pension, in respect of any previous service under the Central Government, his salary in respect of service as the Chairperson or a Member shall be reduced—

Suspension of pension.

(a) by the amount of that pension; and

(b) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

Prohibition of acting as arbitrator.

27. No person shall, while holding office as a Chairperson or a Member, act as an arbitrator in any matter.

Prohibition of practice.

28. On ceasing to hold office, the Chairperson or a Member shall not appear, act or plead before the Commission.

Powers of Chairperson.

29. The Chairperson shall have the power of superintendence in the general administration of the Commission and exercise such powers as may be prescribed.

Officers and other employees of Commission.

30. (1) The Central Government shall provide the Commission with such officers and other employees as it may deem fit.

(2) The salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission shall be such as may be prescribed.

Application for compensation before Commission.

31. (1) Every application for compensation before the Commission for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

(2) Subject to the provisions of section 18, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

Adjudication procedure and powers of Commission.

32. (1) The Commission shall have original jurisdiction to adjudicate upon every application for compensation filed before it under sub-section (1) of section 31 or transferred to it under section 33, as the case may be.

(2) Upon transfer of cases to the Commission under section 33, the Commission shall hear such applications from the stage at which it was before such transfer.

(3) The Chairperson may constitute benches comprising of not more than three Members of the Commission for the purpose of hearing of claims and any decision thereon shall be rendered by a majority of the Members hearing such claims.

(4) The Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Commission shall have the power to regulate its own procedure including the places and the times at which it shall have its sittings.

5 of 1908.

(5) The Commission shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: —

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing of commission for the examination of any witness;

(f) any other matter which may be prescribed.

(6) The Commission shall, after giving notice of application to the operator and after affording an opportunity of being heard to the parties, dispose of such application within a period of three months from the date of such receipt and make an award accordingly.

(7) While making an award under this section, the Commission shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of any contract of insurance or otherwise.

(8) Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Commission may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, grant a temporary injunction to restrain such act.

(9) The Commission shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

(10) Every award made under sub-section (6) shall be final.

33. Every application for compensation pending before the Claims Commissioner immediately before the date of establishment of the Commission under section 19 shall stand transferred on that date to the Commission.

34. Every proceeding before the Claims Commissioner or the Commission under this Act shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of, and for the purposes of section 196 of, the Indian Penal Code.

35. Save as otherwise provided in section 46, no civil court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Claims Commissioner or the Commission, as the case may be, is empowered to adjudicate under this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

36. (1) When an award is made under sub-section (1) of section 16 or under sub-section (6) of section 32, —

(a) the insurer or any person, as the case may be, who under the contract of insurance or financial security under section 8 is required to pay any amount in terms of such award and to the extent of his liability under such contract, shall deposit that amount within such time and in such manner as the Claims Commissioner or the Commission, as the case may be, may direct; and

(b) the operator shall, subject to the maximum liability specified under sub-section (2) of section 6, deposit the remaining amount by which such award exceeds the amount deposited under clause (a).

(2) Where any person referred to in sub-section (1) fails to deposit the amount of award within the period specified in the award, such amount shall be recoverable from such person as arrears of land revenue.

(3) The amount deposited under sub-section (1) shall be disbursed to such person as may be specified in the award within a period of fifteen days from the date of such deposit.

37. The Commission shall prepare, in such form and at such time in each financial year, as may be prescribed, an annual report giving full account of its activities during that financial year and submit a copy thereof to the Central Government which shall cause the same to be laid before each House of Parliament.

38. (1) Where the Central Government is satisfied that the purpose for which the Commission established under section 19 has served its purpose, or where the number of cases pending before such Commission is so less that it would not justify the cost of its continued function, or where it considers necessary or expedient so to do, the Central Government may, by notification, dissolve the Commission.

Transfer of pending cases to Commission.

Proceedings before Claims Commissioner or Commission to be judicial proceedings.

Exclusion of jurisdiction of civil courts.

Enforcement of awards.

Annual report.

Dissolution of Commission in certain circumstances.

(2) With effect from the date of notification of dissolution of Commission under sub-section (1), —

(a) the proceeding, if any, pending before the Commission as on the date of such notification shall be transferred to the Claims Commissioner to be appointed by the Central Government under sub-section (2) of section 9;

(b) the Chairperson and all Members of the Commission shall be deemed to have vacated their offices as such and they shall not be entitled to any compensation for premature termination of their office;

(c) officers and other employees of the Commission shall be transferred to such other authority or offices of the Central Government, in such manner, as may be prescribed:

Provided that the officers and other employees so transferred, shall be entitled to the same terms and conditions of service as would have been held by them in the Commission:

Provided further that where an officer or an employee of the Commission refuses to join the services in such other authority or office, he shall be deemed to have resigned and shall not be entitled to any compensation for premature termination of contract of service;

(d) all assets and liabilities of the Commission shall vest in the Central Government.

(3) Notwithstanding the dissolution of the Commission under sub-section (1), anything done or any action taken or purported to have been done or taken including any order made or notice issued or any appointment, confirmation or declaration made or any document or instrument executed or any direction given by the Commission before such dissolution, shall be deemed to have been validly done or taken.

(4) Nothing in this section shall be construed to prevent the Central Government to establish the Commission subsequent to the dissolution of the Commission in accordance with the provisions of this Act.

CHAPTER VI

OFFENCES AND PENALTIES

Offences and penalties.

39. (1) Whoever—

(a) contravenes any rule made or any direction issued under this Act; or

(b) fails to comply with the provisions of section 8; or

(c) fails to deposit the amount under section 36,

shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

(2) Whoever fails to comply with any direction issued under section 43 or obstructs any authority or person in the exercise of his powers under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Offences by companies.

40. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm.

41. Where an offence under this Act has been committed by any Department of the Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by
Government
Departments.

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

42. No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act:

Cognizance
of offences.

Provided that cognizance of such offence shall not be taken except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Government.

CHAPTER VII

MISCELLANEOUS

43. The Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions, as it may deem fit, for the purposes of this Act, to any operator, person, officer, authority or body and such operator, person, officer, authority or body shall be bound to comply with such directions.

Power to give
directions.

44. The Central Government may call for such information from an operator as it may deem necessary.

Power to call
for
information.

45. The Central Government may, by notification, exempt any nuclear installation from the application of this Act where, having regard to small quantity of nuclear material, it is of the opinion that the risk involved is insignificant.

Exemption
from
application of
this Act.

46. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt the operator from any proceeding which might, apart from this Act, be instituted against such operator.

Act to be in
addition to
any other law.

47. No suit, prosecution or other legal proceedings shall lie against the Central Government or the person, officer or authority in respect of anything done by it or him in good faith in pursuance of this Act or of any rule or order made, or direction issued, thereunder.

Protection of
action taken
in good faith.

48. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers such rules may provide for —

(a) the other financial security and the manner thereof under sub-section (1) of section 8;

(b) the salary and allowances payable to and the other terms and conditions of service of Claims Commissioner under section 11;

(c) the procedure to be followed by Claims Commissioner under sub-section (1) of section 12;

(d) the person to be associated by Claims Commissioner and the manner thereof, under sub-section (2) of section 12;

(e) the remuneration, fee or allowances of associated person under sub-section (3) of section 12;

(f) any other matter under clause (f) of sub-section (4) of section 12;

(g) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1) of section 15;

(h) the salary and allowances payable to and other terms and conditions of service of Chairperson and other Members, under section 22;

(i) the powers of Chairperson under section 29;

(j) the salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission, under sub-section (2) of section 30;

(k) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1) of section 31;

(l) any other matter under clause (f) of sub-section (5) of section 32;

(m) the form and the time for preparing annual report by the Commission under section 37;

(n) the manner of transfer of officers and other employees of the Commission under clause (c) of sub-section (2) of section 38.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties

49. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Sd/-
V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 2nd December, 2011.

No. RPB/42-2011/Act.-42-10/E.- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 27th September, 2010, Asvina 5, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 26th September, 2010, is hereby published for general information:-

THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

AN ACT

(Act No. 42 of 2010)

[26th September, 2010]

to consolidate the law to regulate the acceptance and utilisation of foreign contribution of foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:--

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Foreign Contribution (Regulation) Act, 2010.
- (2) It extends to the whole of India, and it shall also apply to—
 - (a) citizens of India outside India; and

Short title
extent,
application
and com-
mencement.

(b) associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "association" means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, or not, and any other organisation, by whatever name called; 21 of 1860.

(b) "authorised person in foreign exchange" means an authorised person referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999; 42 of 1999.

(c) "bank" means a banking company as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(d) "candidate for election" means a person who has been duly nominated as a candidate for election to any Legislature;

(e) "certificate" means certificate of registration granted under sub-section (3) of section 12;

(f) "company" shall have the meaning assigned to it under clause (17) of section 2 of the Income-tax Act, 1961; 43 of 1961.

(g) "foreign company" means any company or association or body of individuals incorporated outside India and includes—

(i) a foreign company within the meaning of section 591 of the Companies Act, 1956; 1 of 1956.

(ii) a company which is a subsidiary of a foreign company;

(iii) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause (ii);

(iv) a multi-national corporation.

Explanation.— For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,—

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

(h) "foreign contribution" means the donation, delivery or transfer made by any foreign source,—

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999. 42 of 1956. 42 of 1999.

Explanation 1.— A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2.— The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 3.— Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

(i) "foreign hospitality" means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment;

(j) "foreign source" includes,—

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g);

(vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:—

(A) the Government of a foreign country or territory;

(B) the citizens of a foreign country or territory;

(C) corporations incorporated in a foreign country or territory;

(D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

(E) foreign company;

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association of individuals formed or registered outside India;

(x) a citizen of a foreign country;

(k) "Legislature" means —

(A) either House of Parliament;

(B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;

(C) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963;

20 of 1963.

(D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991;

1 of 1992.

(E) Municipality as defined in clause (e) of article 243P of the Constitution;

(F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;

(G) Panchayat as defined in clause (d) of article 243 of the Constitution;

or

(H) any other elective body as may be notified by the Central Government;

(I) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(m) "person" includes—

(i) an individual;

(ii) a Hindu undivided family;

(iii) an association;

(iv) a company registered under section 25 of the Companies Act, 1956;

1 of 1956.

(n) "political party" means—

(i) an association or body of individual citizens of India—

(A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951; or

43 of 1951.

(B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;

(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No.56/J&K/02, dated the 8th August, 2002, as in force for the time being;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "prescribed authority" means an authority specified as such by rules made by the Central Government under this Act;

(q) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867;

25 of 1867.

(r) "relative" has the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956;

1 of 1956.

(s) "scheduled bank" shall have the meaning assigned to it under clause (e) of section 2 of the Reserve Bank of India Act, 1934;

2 of 1934.

- 1 of 1956. (t) "subsidiary" and "associate" shall have the meanings, respectively assigned to them in the Companies Act, 1956;
- 16 of 1926. (u) "trade union" means a trade union registered under the Trade Unions Act, 1926;
- 43 of 1950. (2) Words and expressions used herein and not defined in this Act but defined in the Representation of the People Act, 1950 or the Representation of the People Act, 1951 or the Foreign Exchange Management Act, 1999 shall have the meanings respectively assigned to them in those Acts.
- 43 of 1951.
- 42 of 1999.

CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY

3. (1) No foreign contribution shall be accepted by any—

Prohibition to accept foreign contribution.

- (a) candidate for election;
- (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
- (d) member of any Legislature;
- (e) political party or office-bearer thereof;
- (f) organisation of a political nature as may be specified under sub-section (1) of section 5 by the Central Government;
- (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 or any other mode of mass communication;
- (h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

21 of 2000.

1 of 1956.

Explanation.—In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956.

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.

(b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.

(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

Persons to whom section 3 shall not apply.

4. Nothing contained in section 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of section 10,—

(a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or

(b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or

(c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or

(d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or

(e) from his relative; or

(f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or

42 of 1999.

(g) by way of any scholarship, stipend or any payment of like nature:

Provided that in case any foreign contribution received by any person specified under section 3, for any of the purposes other than those specified under this section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

Procedure to notify an organisation of a political nature.

5. (1) The Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party, referred to in clause (f) of sub-section (1) of section 3:

Provided that the Central Government may, by rules made by it, frame the guidelines specifying the ground or grounds on which an organisation shall be specified as an organisation of a political nature.

(2) Before making an order under sub-section (1), the Central Government shall give the organisation in respect of whom the order is proposed to be made, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organisation of political nature under that sub-section.

(3) The organisation to whom a notice has been served under sub-section (2), may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation under sub-section (1):

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the organisation was prevented by sufficient cause from making the representation within thirty days.

(4) The Central Government may, if it considers it appropriate, forward the representation referred to in sub-section (3) to any authority to report on such representation.

(5) The Central Government may, after considering the representation and the report of the authority referred to in sub-section (4), specify such organisation as an organisation of a political nature not being a political party and make an order under sub-section (1) accordingly.

(6) Every order under sub-section (1) shall be made within a period of one hundred and twenty days from the date of issue of notice under sub-section (2):

Provided that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order under sub-section (1) within a period of sixty days from the expiry of the said period of one hundred and twenty days.

6. No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

Restriction on acceptance of foreign hospitality.

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

7. No person who —

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution,

Prohibition to transfer foreign contribution to other person.

shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act:

Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.

8. (1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,—

Restriction to utilise foreign contribution for administrative purpose.

(a) shall utilise such contribution for the purposes for which the contribution has been received:

Provided that any foreign contribution or any income arising out of it shall not be used for speculative business:

Provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;

(b) shall not defray as far as possible such sum, not exceeding fifty per cent. of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding fifty per cent. of such contribution may be defrayed with prior approval of the Central Government.

(2) The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.

9. The Central Government may—

(a) prohibit any person or organisation not specified in section 3, from accepting any foreign contribution;

(b) require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality;

Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.

(c) require any person or class of persons not specified in section 11, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised;

(d) without prejudice to the provisions of sub-section (1) of section 11, require any person or class of persons specified in that sub-section to obtain prior permission of the Central Government before accepting any foreign contribution;

(e) require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially —

- (i) the sovereignty and integrity of India; or
- (ii) public interest; or
- (iii) freedom or fairness of election to any Legislature; or
- (iv) friendly relations with any foreign State; or
- (v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

Power to prohibit payment of currency received in contravention of the Act.

10. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 shall, so far as may be, apply to, or in relation to, such article or currency or security and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency or security.

37 of 1967.

CHAPTER III

REGISTRATION

Registration of certain persons with Central Government.

11. (1) Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:

Provided that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

49 of 1976.

(2) Every person referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after

(b) utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

14. (1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if—

Cancellation of certificate.

(a) the holder of the certificate has made a statement in, or in relation to, the application of the grant of registration or renewal thereof, which is incorrect or false; or

(b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or

(c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or

(d) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or

(e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

(2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

(3) Any person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

15. (1) The foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled under section 14 shall vest in such authority as may be prescribed.

Management of foreign contribution of person whose certificate has been cancelled.

(2) The authority referred to in sub-section (1) may, if it considers necessary and in public interest, manage the activities of the person referred to in that sub-section for such period and in such manner, as the Central Government may direct and such authority may utilise the foreign contribution or dispose of the assets created out of it in case adequate funds are not available for running such activity.

(3) The authority referred to in sub-section (1) shall return the foreign contribution and the assets vested upon it under that sub-section to the person referred to in the said sub-section if such person is subsequently registered under this Act.

16. (1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

Renewal of certificate.

(2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.

CHAPTER IV

ACCOUNTS, INTIMATION, AUDIT AND DISPOSAL OF ASSETS, ETC.

17. (1) Every person who has been granted a certificate or given prior permission under section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate:

Foreign contribution through scheduled bank.

Provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him:

Provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts.

(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified—

(a) prescribed amount of foreign remittance;

(b) the source and manner in which the foreign remittance was received;
and

(c) other particulars,

in such form and manner as may be prescribed.

Intimation.

18. (1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

(2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section (1).

Maintenance
of accounts.

19. Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed,—

(a) an account of any foreign contribution received by him; and

(b) a record as to the manner in which such contribution has been utilised by him.

Audit of
accounts.

20. Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

Intimation by
candidate for
election.

21. Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

Disposal of
assets created
out of foreign
contribution.

22. Where any person who was permitted to accept foreign contribution under this Act, ceases to exist or has become defunct, all the assets of such person shall be disposed of in accordance with the provisions contained in any law for the time being in force under which the person was registered or incorporated, and in the absence of any such law, the Central Government may, having regard to the nature of assets created out of foreign contribution received under this Act, by notification, specify that all such assets shall be disposed off by such authority, as it may specify, in such manner and procedure as may be prescribed.

within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

5 of 1908.

(3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

32. (1) The Central Government may, either of its own motion or on an application for revision by the person registered under this Act, call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.

Revision of
orders by
Central
Government.

(2) The Central Government shall not of its own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the person referred to in sub-section (1), the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal or an appeal has been filed under this Act.

(5) Every application by such person for revision under this section shall be accompanied by such fee, as may be prescribed.

Explanation.— An order by the Central Government declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to such person.

CHAPTER VIII

OFFENCES AND PENALTIES

33. Any person, subject to this Act, who knowingly, —

- (a) gives false intimation under sub-section (c) of section 9 or section 18; or
- (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact,

Making of false
statement,
declaration or
delivering false
accounts.

shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both.

2 of 1974.

34. If any person, on whom any prohibitory order has been served under section 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

Penalty for
article or
currency or
security
obtained in
contravention
of section 10.

Punishment for contravention of any provision of the Act.

35. Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Power to impose additional fine where article or currency or security is not available for confiscation.

36. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act. 2 of 1974.

Penalty for offences where no separate punishment has been provided.

37. Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

Prohibition of acceptance of foreign contribution.

38. Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under section 35 or section 37, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

Offences by companies.

39. (1) Where an offence under this Act or any rule or order made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm, society, trade union or other association of individuals; and

(b) “director”, in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

Bar on prosecution of offences under the Act.

40. No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

Composition of certain offences.

41. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the Official Gazette, specify in this behalf. 2 of 1974.

(s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this Act shall give intimation under section 18;

(t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under section 19;

(u) the time within which and the manner in which a candidate for election shall give intimation under section 21;

(v) the manner and procedure to be followed in disposing of the assets under section 22;

(w) the limits subject to which any confiscation may be adjudged under clause (b) of sub-section (1) of section 29;

(x) the fee to be accompanied along with every application for revision under sub-section (5) of section 32;

(y) the form and manner for making of an application for compounding of an offence and the fee therefor under sub-section (4) of section 41;

(z) the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under section 44;

(za) any other matter which is required to be, or may be, prescribed.

49. Every order made under section 5 and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

Orders and rules to be laid before Parliament.

50. If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organisation (not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

Power to exempt in certain cases.

51. Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

Act not to apply to certain Government transactions.

52. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application of other laws not barred.

53. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and
saving.

54. (1) The Foreign Contribution (Regulation) Act, 1976 (hereafter referred to as the repealed Act) is hereby repealed. 49 of 1976.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any organisation of a political nature, not being a political party, to whom the prior permission was granted under section 5 of the repealed Act, shall continue to be the organisation of a political nature, not being a political party, under clause (f) of sub-section (1) of section 3 of this Act, till such permission is withdrawn by the Central Government;

(c) permission to accept foreign hospitality granted under section 9 of the repealed Act shall be deemed to be the permission granted under section 6 of this Act until such permission is withdrawn by the Central Government;

(d) any association prohibited from accepting any foreign contribution under clause (a) of section 10 of the repealed Act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under section 9 of this Act;

(e) permission obtained under clause (b) of section 10 of the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government;

(f) any order issued under section 12 of the repealed Act shall be deemed to be an order issued under section 10 of this Act;

(g) any order issued under section 31 of the repealed Act exempting any association or any individual shall be deemed to be an order under section 50 of this Act till such order is varied or revoked.

(3) Save as provided in sub-section (2), mention of particular matters in that sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

10 of 1897.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LII]

FRIDAY, DECEMBER 2, 2011/AGRAHAYANA 11, 1933

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 2nd December, 2011.

No. RPB/41-2011/Act.-41-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22nd September, 2010, Bhadra 31, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 21st September, 2010, is hereby published for general information:-

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2010

AN ACT

(Act No. 41 of 2010).

[21st September, 2010]

further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. On and from the date of commencement of section 5 of the Code of Criminal Procedure (Amendment) Act, 2008, in section 41 of the Code of Criminal Procedure, 1973 [as amended by section 5 of the Code of Criminal Procedure (Amendment) Act, 2008], in sub-section (1), in clause (b), the following proviso shall be inserted at the end, namely:-

"Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest."

5 of 2009.
2 of 1974.

Amendment
of section
41A.

3. On and from the date of commencement of section 6 of the Code of Criminal Procedure (Amendment) Act, 2008, in section 41A of the Code of Criminal Procedure, 1973 [as inserted by section 6 of the Code of Criminal Procedure (Amendment) Act, 2008],—

5 of 2009.
2 of 1974.

(a) in sub-section (1), for the words "The police officer may", the words "The police officer shall" shall be substituted;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice."

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 2nd December, 2011.

No. RPB/40-2011/Act.-40-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22nd September, 2010, Bhadra 31, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 21st September, 2010, is hereby published for general information:-

THE TRADE MARKS (AMENDMENT) ACT, 2010

AN ACT

(Act No. 40 of 2010)

[21st September, 2010]

to amend the Trade Marks Act, 1999.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:--

1. (1) This Act may be called the Trade Marks (Amendment) Act, 2010.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

47 of 1999.

2. In section 11 of the Trade Marks Act, 1999 (hereinafter referred to as the principal Act), in the *Explanation*, for clause (a), the following clause shall be substituted, Namely :--

Amendment
of section 11.

"(a) a registered trade mark or an application under section 18 bearing an earlier date of filing or an international registration referred to in section 36E or convention application referred to in section 154 which has a date of application earlier than that of the trade mark in question, taking account, where appropriate, of the priorities claimed in respect of the trade marks."

(j) "international registration" means the registration of a trade mark in the register of the International Bureau effected under the Madrid Protocol;

(k) "Madrid Agreement" means the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 14th day of April, 1891, as subsequently revised and amended;

(l) "Madrid Protocol" means the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 27th day of June, 1989, as amended from time to time.

36C. Notwithstanding anything contained in sub-section (3) of section 5, an international application shall be dealt with by the head office of the Trade Marks Registry or such branch office of the Registry, as the Central Government may, by notification in the Official Gazette, specify.

Trade Marks Registry to deal with international applications.

36D. (1) Where an application for the registration of a trade mark has been made under section 18 or a trade mark has been registered under section 23, the applicant or the registered proprietor may make an international application on the form prescribed by the Common Regulations for international registration of that trade mark.

International application originating from India.

(2) A person holding an international registration may make an international application on the form prescribed by the Common Regulations for extension of the protection resulting from such registration to any other Contracting Party.

(3) An international application under sub-section (1) or sub-section (2) shall designate the Contracting Parties where the protection resulting from the international registration is required.

(4) The Registrar shall certify in the prescribed manner that the particulars appearing in the international application correspond to the particulars appearing, at the time of the certification, in the application under section 18 or the registration under section 23, and shall indicate the date and number of that application or the date and number of that registration as well as the date and number of the application from which that registration resulted, as the case may be, and shall within the prescribed period, forward the international application to the International Bureau for registration, also indicating the date of the international application.

(5) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the application under section 18 or the registration under section 23, as the case may be, has been withdrawn or cancelled or has expired or has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration shall cease to have effect:

Provided that where an appeal is made against the decision of registration and an action requesting for withdrawal of application or an opposition to the application has been initiated before the expiry of the period of five years of an international registration, any final decision resulting into withdrawal, cancellation, expiration or refusal shall be deemed to have taken place before the expiry of five years of the international registration.

(6) The Registrar shall, during the period of five years beginning with the date of international registration, transmit to the International Bureau every information referred to in sub-section (5).

(7) The Registrar shall notify the International Bureau the cancellation to be effected to an international registration keeping in view the current status of the basic application or the basic registration, as the case may be.

International
registrations
where India
has been
designated.

36E. (1) The Registrar shall, after receipt of an advice from the International Bureau about any international registration where India has been designated, keep a record of the particulars of that international registration in the prescribed manner.

(2) Where, after recording the particulars of any international registration referred to in sub-section (1), the Registrar is satisfied that in the circumstances of the case the protection of trade mark in India should not be granted or such protection should be granted subject to conditions or limitations or to conditions additional to or different from the conditions or limitations subject to which the international registration has been accepted, he may, after hearing the applicant if he so desires, refuse grant of protection and inform the International Bureau in the prescribed manner within eighteen months from the date on which the advice referred to in sub-section (1) was received.

(3) Where the Registrar finds nothing in the particulars of an international registration to refuse grant of protection under sub-section (2), he shall within the prescribed period cause such international registration to be advertised in the prescribed manner.

(4) The provisions of sections 9 to 21 (both inclusive), 63 and 74 shall apply *mutatis mutandis* in relation to an international registration as if such international registration was an application for registration of a trade mark under section 18.

(5) When the protection of an international registration has not been opposed and the time for notice of opposition has expired, the Registrar shall within a period of eighteen months of the receipt of advice under sub-section (1) notify the International Bureau its acceptance of extension of protection of the trade mark under such international registration and, in case the Registrar fails to notify the International Bureau, it shall be deemed that the protection has been extended to the trade mark.

(6) Where a registered proprietor of a trade mark makes an international registration of that trade mark and designates India, the international registration from the date of the registration shall be deemed to replace the registration held in India without prejudice to any right acquired under such previously held registration and the Registrar shall, upon request by the applicant, make necessary entry in the register referred to in sub-section (1) of section 6.

(7) A holder of international registration of a trade mark who designates India and who has not been extended protection in India shall have the same remedy which is available to any person making an application for the registration of a trade mark under section 18 and which has not resulted in registration under section 23.

(8) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the related basic application or, as the case may be, the basic registration in a Contracting Party other than India has been withdrawn or cancelled or has expired or has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration in India shall cease to have effect.

36F. (1) From the date of the international registration of a trade mark where India has been designated or the date of the recording in the register of the International Bureau about the extension of the protection resulting from an international registration of a trade mark to India, the protection of the trade mark in India shall be the same as if the trade mark had been registered in India.

(2) The indication of classes of goods and services given by the applicant shall not bind the Registrar with regard to the determination of the scope of the protection of the trade mark.

Effects of
international
registration.

36G. (1) The international registration of a trade mark at the International Bureau shall be for a period of ten years and may be renewed for a period of ten years from the expiry of the preceding period.

Duration and renewal of international registration.

(2) Subject to payment of a surcharge prescribed by the rules, a grace period of six months shall be allowed for renewal of the international registration.

6. For section 45 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 45.

“45. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application, register him as the proprietor of the trade mark in respect of the goods or services in respect of which the assignment or transmission has effect, and shall cause particulars of such assignment or transmission to be entered on the register.

Registration of assignments and transmissions.

(2) The Registrar may require the applicant to furnish evidence or further evidence in proof of title only where there is a reasonable doubt about the veracity of any statement or any document furnished.

(3) Where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the parties have been determined by a competent court and in all other cases the Registrar shall dispose of the application within the prescribed period.

(4) Until an application under sub-section (1) has been filed, the assignment or transmission shall be ineffective against a person acquiring a conflicting interest in or under the registered trade mark without the knowledge of assignment or transmission.”

7. Chapter X of the principal Act shall be omitted.

Omission of Chapter X.

8. In section 150 of the principal Act, in sub-section (1), for the word “applications”, the words “applications, international applications” shall be substituted.

Amendment of section 150.

9. In section 157 of the principal Act, in sub-section (2), —

Amendment of section 157.

(a) for clause (vii), the following clause shall be substituted, namely:—

“(vii) the manner of giving a notice of opposition and the fee payable for such notice under sub-section (1) and sending counter-statement under sub-section (2) and submission of evidence and the time therefor under sub-section (4) of section 21;”;

(b) after clause (ix), the following clauses shall be inserted, namely:—

“(ixa) the time within which the international application is to be forwarded to the International Bureau and the manner of certifying the particulars by the Registrar under sub-section (4) of section 36D;

(ixb) the manner of keeping a record of particulars of an international registration under sub-section (1) of section 36E;

(ixc) the manner of informing the International Bureau under sub-section (2) of section 36E;

(ixd) the manner of advertising the international registration and the time within which the international registration shall be advertised under sub-section (3) of section 36E;”;

(c) after clause (xiii), the following clause shall be inserted, namely:—

“(xiiia) the period within which the Registrar shall dispose of an application under sub-section (3) of section 45;”;

(d) clauses (xxvi), (xxvii) and (xxviii) shall be omitted.

Power of
Central
Government
to remove
difficulties.

10. (1) Notwithstanding anything contained in section 156 of the principal Act, if any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing such difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 2nd December, 2011.

No. RPB/36-2011/Act.-36-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22nd September, 2010, Bhadra 31, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 21st September, 2010, is hereby published for general information:-

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 2010

AN ACT

(Act No. 36 of 2010)

[21st September, 2010]

further to amend the Representation of the People Act, 1950.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

47 of 1950.

2. In the Representation of the People Act, 1950 (hereinafter referred to as the principal Act), after section 20, the following section shall be inserted, namely:-

" 20A. (1) Notwithstanding anything contained in this Act, every citizen of India,--

(a) whose name is not included in the electoral roll ;

(b) who has not acquired the citizenship of any other country; and

Insertion of new section 20A. Special provisions for citizens of India residing outside India.

(c) who is absenting from his place of ordinary residence in India owing to his employment, education or otherwise outside India (whether temporarily or not),

shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located.

(2) The time within which the name of persons referred to in sub-section (1) shall be registered in the electoral roll and the manner and procedure for registering of a person in the electoral roll under sub-section (1) shall be such as may be prescribed.

(3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the constituency."

Amendment of
section 22.

3. In section 22 of the principal Act,—

(a) after the words "amend, transpose or delete the entry", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted;

(b) in the proviso, after the words "proposed to be taken in relation to him", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted.

Amendment of
section 23.

4. In section 23 of the principal Act, in sub-section (2),—

(a) after the words "direct his name to be included therein", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted;

(b) in the proviso, after the words "strike off the applicant's name in that roll", the words "after proper verification of facts in such manner as may be prescribed" shall be inserted.

Amendment of
section 28.

5. In section 28 of the principal Act, in sub-section (2), after clause (h), the following clauses shall be inserted, namely:—

"(hh) the procedure for proper verification of facts for amending, transposing or deleting any entry in the electoral rolls, under section 22;

"(hhh) the procedure for proper verification of facts for inclusion of or striking off, names in the electoral rolls, under sub-section (2) of section 23;"

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTHI,

Secretary to Government.



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Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/35-2011/Act-35-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 9th September, 2010, Bhadra 18, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 8th September, 2010, is hereby published for general information :-

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2010

AN ACT

(Act No. 35 of 2010)

[8th September, 2010]

Further to amend the Essential Commodities Act, 1955

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. This Act may be called the Personal Laws (Amendment) Act, 2010.

Short title

2. In section 3 of the Essential Commodities Act, 1955, in sub-section (3C), the Explanation shall be numbered as Explanation I, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of October, 2009, namely :-

Amendment of section 3 of Act 10 of 1955

Explanation II.- For the removal of doubts, it is hereby declared that the expressions "fair and remunerative price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital

employed" referred to in clause (d), of this sub-section do not include the price paid or payable under any order or any enactment of any State Government and any price agreed to between the producer and the grower or a sugarcane growers' co-operative society.'.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat.

C. J. GOTH,
Secretary to Government.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/34-2011/Act-34-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 9th September, 2010, Bhadra 18, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 8th September, 2010, is hereby published for general information :-

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2010

AN ACT

(Act No. 34 of 2010)

[8th September, 2010]

Further to amend the Mines and minerals (Development and Regulation) Act, 1957.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Mines and minerals (Development and Regulation) Amendment Act, 2010. Short title and commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

67 of 1957. 2. In the Mines and minerals (Development and Regulation) Act, 1957. (hereinafter referred to as the principal Act), after section-11, the following section shall be inserted, namely :- Insertion of new section 11A

11A. The Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of an area containing coal of lignite, select, through auction by competitive bidding on such terms and conditions as may be prescribed, a company engaged in,- Procedure in respect of coal or lignite.

- (i) production of iron and steel;
- (ii) generation of power;
- (iii) washing of coal obtained from a mine; or
- (iv) such other end use as the Central Government may, by notification in the Official Gazette, specify.

and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of coal or lignite to such company as selected through auction by competitive bidding under this section:

Provided that the auction by competitive bidding shall not be applicable to an area containing coal or lignite,—

(a) where such area is considered for allocation to a Government company or corporation for mining or such other specified end use;

(b) where such area is considered for allocation to a company or corporation that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

Explanation.—For the purposes of this section, “company” means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act.

Amendment of
section 13.

3. In section 13 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(d) the terms and conditions of auction by competitive bidding for selection of the company under section 11A;”.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat.

C. J. GOTHI,

Secretary to Government.

Government Central Press, Gandhinagar.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/32-2011/Act-32-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 4th September, 2010, Bhadra 13, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 4th September, 2010, is hereby published for general information :-

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ACT, 2010

An Act

(Act No. 32 of 2010)

[4th September, 2010]

Further to amend the Indian Medical Council Act, 1956.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2010.

(2) It shall be deemed to have come into force on the 15th day of the May, 2010.

Short title and commencement.

102 of 1956.

2. After section 3 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely :-

Insertion of new sections 3A, 3B and 3C.

3A. (1) on and from the date of commencement of the Indian Medical Council (Amendment) Act, 2010, the Council shall stand superseded and the President, Vice-President and other members of the Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

Power of Central Government to supersede the Council and to constitute a Board of Governors.

(2) The Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Council under sub-section (1).

(3) Upon the supersession of the Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors



सत्यमेव जयते

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Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/18-2011/Act-18-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 25th May, 2010, Jyaishta 4, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 24th May, 2010, is hereby published for general information :-

THE EMPLOYEES STATE INSURANCE COMMODITIES (AMENDMENT) ACT, 2010

AN ACT

(Act No. 18 of 2010)

[24th May, 2010]

Further to amend the Employees' State Insurance Act, 1948.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Employees' State Insurance (Amendment) Act, 2010.

Short title and
commencement

(2) Section 18 shall be deemed to have come into force on the 3rd day of July, 2008 and the remaining provision of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34 of 1948.

2. In the employees' State insurance Act, 1948 (hereinafter referred to as the principal Act), in section-1, in sub-section (5), for the words "six months", the words "one months" shall be substituted.

Amendment of
section 1.

Amendment
of section 2.

3. In section 2 of the principal Act, —

(A) in clause (6A), —

(a) for sub-clause (i), the following sub-clause shall be substituted, namely:—

"(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter,";

(b) in sub-clause (ii), for the words "eighteen years", the words "twenty-five years" shall be substituted;

(B) in clause (9), for the words "or under the standing orders of the establishment," the words "and includes such person engaged as apprentice whose training period is extended to any length of time" shall be substituted;

(C) in clause (11), for sub-clause (v), the following sub-clauses shall be substituted, namely:—

"(v) dependant parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government;

(vi) in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependant upon the earnings of the insured person;"

(D) for clause (12), the following clause shall be substituted, namely:—

"(12) "factory" means any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed;"

35 of 1952.

Amendment
of section 10.

4. In section 10 of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) the Director General, the Employees' State Insurance Corporation, *ex officio* as Chairman;

(b) the Director General, Health Services, *ex officio* as Co-chairman;"

Amendment
of section 12.

5. In section 12 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) A person referred to in clause (i) of section 4 shall cease to be a member on becoming a Minister or Speaker or Deputy Speaker of the House of the People or Deputy Chairman of the Council of States or when he ceases to be a member of Parliament."

Amendment
of section 17.

6. In section 17 of the principal Act, in sub-section (2), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis."

Amendment
of section 37.

7. In section 37 of the principal Act, for the words "five years", the words "three years" shall be substituted.

Amendment
of section 45.

8. In section 45 of the principal Act,—

(a) for the words "Inspectors" and "Inspector", wherever they occur, the words "Social Security Officers" and "Social Security Officer" shall respectively be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Any officer of the Corporation authorised in this behalf by it may, carry out re-inspection or test inspection of the records and returns submitted under section 44 for the purpose of verifying the correctness and quality of the inspection carried out by a Social Security Officer.”.

9. In section 45A of the principal Act, in sub-section (1),—

(i) for the word “Inspector”, the words “Social Security Officer” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that no such order shall be passed by the Corporation in respect of the period beyond five years from the date on which the contribution shall become payable.”.

10. After section 45A of the principal Act, the following section shall be inserted, namely:—

“45AA. If an employer is not satisfied with the order referred to in section 45A, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

Provided that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulation.”.

11. In the principal Act, in sections 51A and 51B, for the words “an insured person’s”, the words “an employee’s” shall be substituted.

12. In the principal Act, in sections 51C and 51D, for the words “insured person”, the word “employee” shall be substituted.

13. After section 51D of the principal Act, the following section shall be inserted, namely:—

“51 E. An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.”.

14. In section 56 of the principal Act, in sub-section (3), for the third proviso, the following proviso shall be substituted, namely:—

“Provided also that an insured person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement; and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be prescribed by the Central Government.”.

15. In section 58 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) The State Government may, in addition to the Corporation under this Act, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

Amendment
of section
45A.

Insertion of
new section
45AA.

Appellate
authority.

Amendment
of sections
51A and 51B.

Amendment
of sections
51C and 51D.

Insertion of
new section
51E.

Accidents
happening
while
commuting to
the place of
work and vice
versa.

Amendment
of section 56.

Amendment
of section 58.

Provided that any reference to the State Government in the Act shall also include reference to the organisation as and when such organisation is established by the State Government.

(6) The organisation referred to in sub-section (5) shall have such structure and discharge functions, exercise powers and undertake such activities as may be prescribed."

Amendment
of section 59.

16. In section 59 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to insured persons and where such medical benefit has been extended to their families, to their families."

Insertion of
new section
59B.

17. After section 59A of the principal Act, the following section shall be inserted, namely:—

Medical and
para-medical
education.

"59B. The Corporation may establish medical colleges, nursing colleges and training institutes for its para-medical staff and other employees with a view to improve the quality of services provided under the Employees' State Insurance Scheme."

Substitution
of new
Chapter for
Chapter VA.

18. For Chapter VA of the principal Act, the following Chapter shall be substituted, namely:—

'CHAPTER VA

SCHEME FOR OTHER BENEFICIARIES

Definitions.

73A. In this Chapter,—

(a) "other beneficiaries" means persons other than the person insured under this Act;

(b) "Scheme" means any Scheme framed by the Central Government from time to time under section 73B for the medical facility for other beneficiaries;

(c) "underutilised hospital" means any hospital not fully utilised by the persons insured under this Act;

(d) "user charges" means the amount which is to be charged from the other beneficiaries for medical facilities as may be notified by the Corporation in consultation with the Central Government from time to time.

Power to
frame
Schemes.

73B. Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, frame Scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilised on payment of user charges.

Collection of
user charges.

73C. The user charges collected from the other beneficiaries shall be deemed to be the contribution and shall form part of the Employees' State Insurance Fund.

Scheme for
other
beneficiaries.

73D. The Scheme may provide for all or any of the following matters, namely:—

(i) the other beneficiaries who may be covered under this Scheme;

(ii) the time and manner in which the medical facilities may be availed by the other beneficiaries;

(iii) the form in which the other beneficiary shall furnish particulars about himself and his family whenever required as may be specified by the Corporation;

(iv) any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

73E. The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind the Scheme.

Power to
amend
Scheme.

73F. Every Scheme framed under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.

Laying of
Scheme
framed under
this Chapter.

19. All things done, or, omitted to be done, and all actions or measures taken or not taken during the period beginning on or after the 3rd day of July, 2008 and ending immediately before the date of commencement of the Employees' State Insurance (Amendment) Act, 2010, shall in so far as they are in conformity with the provisions of this Act, as amended by the Employees' State Insurance (Amendment) Act, 2010, be deemed to have been done, or taken, or not taken, under the provisions of this Act, as amended by the Employees' State Insurance (Amendment) Act, 2010, as if such provisions were in force at the time such things were done or omitted to be done and actions or measures taken or not taken during the said period.

Validation.

20. In section 87 of the principal Act, the following provisos shall be inserted at the end, namely:—

Amendment
of section 87.

"Provided that such exemptions may be granted only if the employees in such factories or establishments are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act:

Provided further that an application for renewal shall be made three months before the date of expiry of the exemption period and a decision on the same shall be taken by the appropriate Government within two months of receipt of such application."

21. In section 91A of the principal Act, for the words "either prospectively or retrospectively", the word "prospectively" shall be substituted.

Amendment
of section
91A.

22. After section 91A of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
91AA.

"91AA. Notwithstanding anything contained in this Act, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government."

Central
Government
to be
appropriate
Government.

23. In section 95 of the principal Act, in sub-section (2),—

Amendment
of section 95.

(i) after clause (ef), the following clause shall be inserted, namely:—

"(eff) the income of dependant parents from all sources;"

(ii) after clause (eh), the following clause shall be inserted, namely:—

"(ehh) the conditions under which the medical benefits shall be payable to the insured person and spouse of an insured person who has attained the age of

superannuation, the person who retires under Voluntary Retirement Scheme and the person who takes pre-mature retirement;".

Amendment
of section 96.

24. In section 96 of the principal Act, in sub-section (1), after clause (e), the following clause shall be inserted, namely: —

"(ee) the organisational structure, functions, powers, activities and other matters for the establishment of the organisation;".

Amendment
of section 97.

25. In section 97 of the principal Act, in sub-section (2), —

(i) in clause (xx), for the word "Inspectors", the words "Social Security Officers" shall be substituted;

(ii) after clause (xx), the following clause shall be inserted, namely:—

"(xxa) the constitution of the appellate authority and the interest on amount deposited by the employer with the Corporation."

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat.

C. J. GOTHI,

Secretary to Government.

Government Central Press, Gandhinagar.

45 of 1860.

29. All officers and employees of Authority shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers and employees of Authority to be public servants.

30. No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

Protection of action taken in good faith.

31. Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control.

Custody and disposal of lost property.

32. (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of default the financial position of the Authority or the administration of an integrated check post has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

Power of Central Government to supersede Authority.

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary, or

(b) reconstitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament in the immediate subsequent session of Parliament.

Power of
Central
Government to
issue directions.

33. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The Central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions by it under the clauses of sub-section (2) of section 11 and the Authority shall be bound to comply with such directions.

Power to
make rules.

34. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the other conditions of service of members of the Authority under sub-section (2) of section 5;

(b) the period of notice as may be given by any member to resign his office under sub-section (3) of section 5;

(c) the manner in which the Authority may invest the funds under clause (b) of sub-section (3) of section 21;

(d) the form in which the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 25;

(e) the form in which a report giving an account of its activities shall be prepared and submitted by the Authority to the Central Government under sub-section (1) of section 26; and

(f) any other matter which is to be, or may be, prescribed.

Power to
make
regulations.

35. (1) The Authority may, with the previous approval of the Central Government, make regulations not inconsistent with this Act and the rules made thereunder for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the time and places of meetings of the Authority and the procedure to be followed for transaction of business including the quorum at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of section 10;

(c) the contracts which are to be sealed with the common seal of the Authority under sub-section (1), and the form and manner in which a contract may be made by the Authority under sub-section (2) of section 18;

(d) the fees and rent to be charged by the Authority under sub-section (1) of section 19;

(e) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the persons entitled thereto under section 31.

36. Every rule and every regulation made or notification issued under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or notification, as the case may be, or both Houses agree that the rule, regulation or notification, as the case may be, should not be made or issued, the rule, regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or notification.

Rules, regulations and notifications to be laid before Parliament.

37. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall as soon as may be after it is made, be laid before each House of Parliament.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat.

C. J. GOTHI,

Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar,

Dated the 2nd December, 2011.

No. RPB/31-2011/Act-31-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

*Legislative Department

New Delhi, the 1st September, 2010, Bhadra 10, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 31st August, 2010, is hereby published for general information :-

THE LAND PORTS AUTHORITY OF INDIA ACT, 2010

An Act

(Act No. 31 of 2010)

[31st August, 2010]

to provide for the establishment of the Land Ports Authority of India to put in place systems which address security imperatives and for the development and management of facilities for cross border movement of passengers and goods at designated points along the international borders of India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Land Ports Authority of India Act, 2010.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Authority" means the Land Ports Authority of India constituted under section 3;

(b) "Chairperson" means the Chairperson of the Authority appointed under clause (a) of sub-section (3) of section 3;

(c) "immigration check post" means any port or place of departure on the land as notified under the Foreigners' Act, 1946;

31 of 1946.

(d) "integrated check post" means any land port, as the Central Government may, by notification in the Official Gazette, specify;

(e) "land customs station" means any place notified as such by the Central Government under clause (b) of sub-section (1) of section 7 of the Customs Act, 1962 for the clearance of goods imported or to be exported by land or inland water;

52 of 1962.

(f) "land port" means an area on the international borders of India including portions of national highways, State highways and other roads, notified as land customs station or immigration check post under the Customs Act, 1962 or the Foreigners' Act, 1946, and includes railways, with facilities for clearance and transport of passengers and goods across the borders of India;

52 of 1962.

31 of 1946.

(g) "notification" means a notification published in the Official Gazette;

(h) "prescribed" means prescribed by rules made under this Act; and

(i) "regulations" means regulations made by the Authority under this Act.

CHAPTER II

THE LAND PORTS AUTHORITY OF INDIA

Constitution of Authority.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted an Authority to be known as the Land Ports Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of—

(a) a Chairperson;

(b) two Members, out of whom one shall be Member (Planning and Development) and other shall be Member (Finance);

(c) not more than nine members, *ex officio*, to be appointed by the Central Government from amongst the officers, not below the rank of the Joint Secretary to the Government of India, representing the ministries or departments of the Government of India dealing with Home Affairs, External Affairs, Revenue, Commerce, Road Transport and Highways, Railways, Defence, Agriculture and Cooperation, Law and Justice;

(d) the Chief Secretary or his nominee not below the rank of the Secretary to the Government of the respective State where the integrated check posts are located;

(e) two representatives, one of whom shall be from recognised bodies of workers and the other shall be from traders, to be appointed by the Central Government; and

(f) such other representatives as the Central Government may co-opt for functional purposes.

(4) The Chairperson and the members referred to in clause (b) shall be appointed by the Central Government and shall be whole-time members.

(5) The Chairperson shall be chosen from among persons who have special knowledge and experience in the field of security, transport, industry, commerce, law, finance or public administration.

4. A person shall be disqualified for being appointed as a member if, he—

Disqualification
for office of
member.

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. (1) Subject to the provisions of section 6, every whole-time member shall hold office for a period of five years from the date on which he assumes office or till he attains the age of sixty years, whichever is earlier:

Term of office
and conditions
of service of
members.

Provided that the Central Government may —

(a) terminate the appointment of any whole-time member, after giving him notice of a period of not less than three months or, in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

6. The Central Government shall remove a member if, he—

Vacation of
office of
members.

(a) becomes subject to any of the disqualifications mentioned in section 4:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

Eligibility of
member for
re-
appointment.
Meetings.

7. Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment.

8. (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairperson, or, if for any reason, he is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

Vacancies,
etc., not to
invalidate
proceedings of
Authority.

9. No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority;

or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Officers and
other
employees of
Authority.

10. (1) For the purpose of enabling it to efficiently discharge its functions under this Act, the Authority shall appoint such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified, shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

CHAPTER III

FUNCTIONS OF AUTHORITY

Functions of
Authority.

11. (1) Subject to the provisions of this Act, the Authority shall have powers to develop, sanitize and manage the facilities for cross border movement of passengers and goods at designated points along the international borders of India.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may—

(a) put in place systems, which address security imperatives at the integrated check posts on the border;

(b) plan, construct and maintain roads, terminals and ancillary buildings other than national highways, State highways and railways, at an integrated check post;

(c) plan, procure, install and maintain communication, security, goods handling and scanning equipment at an integrated check post;

(d) provide appropriate space and facilities for immigration, customs, security, taxation authorities, animal and plant quarantine, warehouses, cargo and baggage examination yards, parking zones, banks, post offices, communication facilities, tourist information centres, waiting halls, canteen, refreshment stalls, public conveniences, health services and such other services, as may be deemed necessary;

(e) construct residential buildings for its employees as well as residential accommodation for staff deployed at integrated check posts;

(f) establish and maintain hotels, restaurants and restrooms;

(g) establish and maintain warehouses, container depots and cargo complexes for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at integrated check posts;

(i) make appropriate arrangements for the security of integrated check posts and provide for regulation and control of movement of vehicles, entry and exit of passengers and goods in accordance with the respective law concerning them;

(j) ensure prevention and control of fire and other hazards and other facilities as deemed necessary;

(k) regulate and control the movement of vehicles, and the entry and exit of passengers, transportation workers, handling agents, clearing and forwarding agents and goods at the integrated check post with due regard to the law, security and protocol of the Government of India;

(l) co-ordinate and facilitate the working of agencies who have been engaged to undertake various activities at the integrated check posts, in accordance with the respective law, for the time being in force;

(m) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to an integrated check post;

1 of 1956.

(n) form one or more companies under the Companies Act, 1956 or under any other law relating to companies for efficient discharge of the functions imposed on it by this Act;

(o) take all such steps as may be necessary or expedient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act:

Provided that sovereign functions of the Authority shall not be assigned to any private entity;

(p) set up joint ventures for the discharge of any of the functions assigned to the Authority; and

(q) undertake any other activity at the integrated check post in the best commercial interests of the Authority.

(3) In the discharge of its functions under this section, the Authority may consult such ministry or department of the Government of India or of the State Government as it deems necessary, and shall have due regard to the development of land port services and to the efficiency, economy and safety of such service.

(4) Nothing contained in this section shall be construed as—

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject to.

12. (1) The respective border guarding forces deployed at the borders of India shall be responsible for security around an integrated check post.

Responsibilities and powers of other agencies.

(2) The Authority may, whenever considered necessary so to do for ensuring the peace and security at an integrated check post, seek the assistance of armed force, Central para military force or State police as per the provisions of the law for the time being in force.

(3) The Customs, immigration, quarantine and other officials shall co-ordinate with the Authority for the effective discharge of its functions.

(1) Notwithstanding anything contained in any provisions of this Act, the Customs, immigration, quarantine officials, the border guarding forces and the police shall discharge their functions in accordance with the law for the time being in force.

CHAPTER IV

PROPERTY AND CONTRACT

Assets and liabilities to vest in Authority.

13. (1) On the date of notification issued under clause (d) of section 2, all such assets, rights, powers, authorities and privileges and such property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds, investments, tenancies, losses and book debts and all other rights and interests arising out of such property, as immediately before the issue of that notification, were in the ownership or possession of the Government of India in any of the land port, as the Central Government may, in such notification, specify, shall vest in the Authority and such vesting shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting.

(2) The notification under sub-section (1) shall be issued only after the concurrence of the concerned ministries or departments of the Government of India, in case where such properties are owned or controlled by such ministries or departments.

General effect of vesting of undertakings in Authority.

14. All contracts, agreements and working arrangements subsisting immediately before the date of notification issued under clause (d) of section 2, and affecting the land ports shall be of full force and effect as regards the Authority.

Guarantee to be operative.

15. Any guarantee given for or in favour of land customs stations or immigration check posts with respect to a loan, lease or finance shall continue to be operative in relation to such stations or check posts which have been vested in the Authority by virtue of this Act.

Compulsory acquisition of land for Authority.

16. Any land required by the Authority for the discharge of its functions under this Act shall be deemed to be needed for a public purpose and such land may be acquired for the Authority under the provisions of the National Highways Act, 1956 or any other law for the time being in force. 48 of 1956.

Contracts by Authority.

17. Subject to the provisions of section 18, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

Mode of executing contracts on behalf of Authority.

18. (1) Every contract on behalf of the Authority, shall be made by the Chairperson or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts as may be specified, in the regulations, shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be provided by regulations.

(3) Any contract which is not in accordance with the provisions of this Act and the rules and regulations made thereunder shall not be binding on the Authority.



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The Gujarat Government Gazette

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5th December, 2011.

No. RPB/37-2011/Act.-37-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22nd September, 2010, Bhadra 31, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 21st September, 2010, is hereby published for general information:-

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF
PARLIAMENT (AMENDMENT) ACT, 2010

AN

(Act No. 37 of 2010)

ACT

[21st September, 2010]

further to amend the Salary, Allowances and Pension of Members of Parliament

Act, 1954

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows :-

1. (1) This Act may be called the Salary, Allowances and Pension of members of Parliament (Amendment) Act, 2010. Short title and commencement.

(2) Save as otherwise provided, it shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amendment
of section 3.

2. In the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), in section 3,—

(i) for the words "a salary at the rate of sixteen thousand rupees per mensem", the words "a salary at the rate of fifty thousand rupees per mensem" shall be substituted;

(ii) for the words "an allowance at the rate of one thousand rupees for each day", the words "an allowance at the rate of two thousand rupees for each day" shall be substituted;

(iii) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that the rates of salary specified in this section shall be applicable from the 18th day of May, 2009."

Amendment of
section 4.

3. In the principal Act, in section 4, in sub-section (1),—

(i) in sub-clause (ii) of clause (c), for the words "a road mileage at the rate of thirteen rupees per kilometre", the words "a road mileage at the rate of sixteen rupees per kilometre" shall be substituted;

(ii) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that when Parliament is in session and the spouse of a Member, if any, performs such journey or part thereof by road, unaccompanied by such Member, in respect of which such spouse has been allowed to travel by air or partly by air and partly by rail from the usual place of residence of the Member to Delhi or back under sub-section (2) of section 6B, the road mileage prescribed under this sub-clause shall be allowed to such Member for such journey or part thereof, subject to the condition that the total number of such journeys shall not exceed eight in a year;"

(iii) the third proviso shall be omitted.

Amendment of
section 6B.

4. In the principal Act, in section 6B, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Notwithstanding anything contained in clause (ii) of sub-section (1), the spouse of a Member shall be entitled to travel,—

(a) any number of times, by railway in first class air-conditioned or executive class in any train from the usual place of residence of the Member to Delhi and back; and

(b) when Parliament is in session, by air or partly by air and partly by rail, from the usual place of residence of the Member to Delhi or back, subject to the condition that the total number of such air journeys shall not exceed eight in a year:

Provided that where any such journey or part thereof is performed by air from any place other than the usual place of residence of the Member to Delhi and back, then, such spouse shall be entitled to an amount equal to the fare by air for such journey or part thereof, as the case may be, or to the amount equal to the journey performed by air from the usual place of residence of the Member to Delhi and back, whichever is less."

Amendment of
section 8A.

5. In the principal Act, in section 8A, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) With effect from the 18th day of May, 2009, there shall be paid a pension of twenty thousand rupees per mensem to every person who has served for any period as a Member of the Provisional Parliament or either House of Parliament:

Provided that where a person has served as a Member of the Provisional Parliament or either House of Parliament for a period exceeding five years, there shall be paid to him an additional pension of fifteen hundred rupees per mensem for every year served in excess of five years.

Explanation.— For the purpose of this sub-section, "Provisional Parliament" shall include the body which functioned as the Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution.

6. In the principal Act, in section 8B, for the words "one lakh rupees", the words "four lakh rupees" shall be substituted.

Amendment of
section 8B.

Sd/-

V. K. BHASIN,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5th December, 2011.

No. RPB/48-2011/Const-95-10/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 19th January, 2010, Pausa 29, 1932 (Sake)

The following Act of Parliament has received the assent of the President on the 18th January, 2010, is hereby published for general information:-

THE CONSTITUTION (NINETY-FIFTH AMENDMENT)

ACT 2010.

AN ACT

(Act No. 95th Amendment 2010)

[18th January, 2010]

further to amend the Constitution of India

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows :-

1. (1) This Act may be called the Constitution (Ninety-fifth Amendment) Act, 2009. Short title and commencement.
- (2) It shall come into force on the 25th day of January, 2010.

2. In article 334 of the Constitution, for the words "sixty years", the words "seventy years" shall be substituted. Amendment of article 334.

Sd/-

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,
Secretary to Government.
